

Enrolled Senate Bill 3

Sponsored by Senator COURTNEY; Senators HASS, MANNING JR, Representative MARSH (Pre-session filed.)

CHAPTER

AN ACT

Relating to mining; creating new provisions; and repealing ORS 468B.052 and sections 2, 3, 4, 12 and 13, chapter 783, Oregon Laws 2013.

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

REPEAL OF MORATORIUM ON MINING USING MOTORIZED EQUIPMENT

SECTION 1. Sections 2, 3 and 4, chapter 783, Oregon Laws 2013, are repealed.

PROHIBITION ON CERTAIN PLACER MINING OPERATIONS

SECTION 2. Sections 3 to 6 of this 2017 Act are added to and made a part of ORS chapter 468B.

SECTION 3. As used in sections 3 to 6 of this 2017 Act:

(1) “Essential indigenous anadromous salmonid habitat” has the meaning given that term in ORS 196.810, as further defined and designated by rule by the Department of State Lands pursuant to ORS 196.810.

(2) “Line of ordinary high water” has the meaning given that term in ORS 274.005.

(3) “Motorized in-stream placer mining” means mining using any form of motorized equipment, including but not limited to the use of a motorized suction dredge, for the purpose of extracting gold, silver or any other precious metals from placer deposits of the beds or banks of the waters of the state.

(4) “Operator” means any person that is engaged in motorized in-stream placer mining operations.

SECTION 4. (1) An operator may not allow a discharge to waters of the state from a motorized in-stream placer mining operation or activity without having an individual permit or being covered by a general permit issued under ORS 468B.050.

(2) In order to protect indigenous anadromous salmonids and habitat essential to the recovery and conservation of Pacific lamprey, motorized in-stream placer mining may not be permitted to occur up to the line of ordinary high water in any river in this state containing essential indigenous anadromous salmonid habitat, from the lowest extent of essential indigenous anadromous salmonid habitat to the highest extent of essential indigenous anadromous salmonid habitat.

(3) The prohibition in subsection (2) of this section does not apply to the use of nonmotorized mining technology, including but not limited to gravity dredges and syphon dredges.

SECTION 5. (1) An application for a permit under ORS 468B.050 to engage in motorized in-stream placer mining must include:

(a) The name and address of the operator;

(b) Information on how the proposed motorized in-stream placer mining location will be accessed by the operator;

(c) A written affirmation furnished by the operator stating that the operator has reviewed information that is available as part of an application process and that is related to cultural resource preservation and best management practices for motorized in-stream placer mining;

(d) The geographic coordinates for the proposed motorized in-stream placer mining operation; and

(e) Any other information required to be included in the application.

(2) In addition to any other condition imposed by the permit, motorized in-stream placer mining pursuant to a permit issued under ORS 468B.050 may not:

(a) Involve the operation of motorized equipment between the hours of the earlier of 8 p.m. or sunset and 8 a.m. within 1,000 feet of a residence or a campground;

(b) Involve the operation of a motorized suction dredge having a suction hose with an inside diameter exceeding four inches; or

(c) To the extent feasible and as may be further specified in the permit, involve the operation of motorized equipment in a manner deleterious to freshwater mollusks, essential indigenous anadromous salmonid habitat or habitat essential to the recovery and conservation of Pacific lamprey.

(3) The condition under subsection (2)(a) of this section may be waived in a permit or permit coverage issued to the owner of a federal mining claim, but only to the extent that the permit or permit coverage applicant demonstrates that the exercise of the prohibition will violate federal law or constitute a regulatory taking requiring compensation under the United States Constitution or the Oregon Constitution. An applicant seeking a waiver must provide substantial evidence specific to the mining claim in question that establishes the potential violation or regulatory taking. The Department of Environmental Quality shall review and make a determination regarding the request for a waiver as part of the permit or permit coverage decision.

FEES

SECTION 6. A person shall pay the following fees to the Department of Environmental Quality for a general permit issued under ORS 468B.050 for motorized in-stream placer mining, unless the Environmental Quality Commission establishes a lower fee amount under ORS 468.065:

(1) A fee of \$250 for the initial application for or renewal of permit coverage; and

(2) An annual fee of \$250.

PENALTIES

SECTION 7. Section 8 of this 2017 Act is added to and made a part of ORS 468.922 to 468.956.

SECTION 8. (1) A person commits the offense of unlawful motorized in-stream placer mining if the person knowingly engages in motorized in-stream placer mining, as defined in section 3 of this 2017 Act, without a permit issued under ORS 468B.050 or in violation of any rule, permit, order or any applicable requirement adopted or issued under ORS 468B.050 or sections 3 to 6 of this 2017 Act.

(2) Subject to ORS 153.022, unlawful motorized in-stream placer mining is a Class A violation.

(3) Notwithstanding ORS 153.042, an enforcement officer, as defined in ORS 153.005, may issue a citation under subsection (1) of this section when the conduct alleged to constitute a violation has not taken place in the presence of the enforcement officer, if the enforcement officer has reasonable grounds to believe that the conduct constitutes a violation on the basis of information received from an employee of the Department of Environmental Quality.

SUCTION DREDGE STUDY FUND AND FEES

SECTION 9. ORS 468B.052 and sections 12 and 13, chapter 783, Oregon Laws 2013, are repealed.

SECTION 10. Any moneys remaining in the Suction Dredge Study Fund established by section 13, chapter 783, Oregon Laws 2013, on the effective date of this 2017 Act that are unexpended, unobligated and not subject to any conditions shall be transferred by the State Treasurer to the credit of an account of the Department of Environmental Quality to be used in the same manner as fees collected for permits issued under ORS 468B.050.

CAPTIONS

SECTION 11. The unit captions used in this 2017 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2017 Act.

Passed by Senate April 10, 2017

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House May 31, 2017

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Tina Kotek, Speaker of House

Received by Governor:

.....M.,....., 2017

Approved:

.....M.,....., 2017

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2017

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Dennis Richardson, Secretary of State