

Enrolled
Senate Bill 1002

Sponsored by COMMITTEE ON COMMERCE (at the request of Search and Rescue Task Force)

CHAPTER

AN ACT

Relating to search and rescue; creating new provisions; amending ORS 401.560, 401.573, 401.576 and 401.627; and repealing ORS 401.635.

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

SECTION 1. ORS 401.560 is amended to read:

401.560. (1) The sheriff of each county has the responsibility for search and rescue activities within the county. The duty of a sheriff under this subsection may be delegated to a qualified deputy or emergency service worker.

(2) If the sheriff does not accept the responsibility for search and rescue activities, the chief executive of the county shall designate the county emergency program manager to perform the duties and responsibilities required under ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to 401.580.

(3) The sheriff, or *[authorized person]* **individual authorized under subsection (1) or (2) of this section**, of each county shall notify the Office of Emergency Management of each search and rescue in the county and shall request the assignment of incident numbers therefor.

[(4) The sheriff or authorized person of each county shall work with the county emergency program manager in coordinating search and rescue activities in the county of the sheriff and in registering emergency service workers.]

(4) When search and rescue activities occur in a multicounty area:

(a) The sheriff, or the authorized individual described in subsection (3) of this section, of one county shall take charge or the counties shall form a unified command, as outlined in the National Incident Management System Incident Command System established by Homeland Security Presidential Directive 5 of February 28, 2003; or

(b) If the appropriate sheriff or the authorized individual does not assume command as described in paragraph (a) of this subsection, the sheriff who received the initial call shall take charge of the multicounty search and rescue.

SECTION 2. ORS 401.573 is amended to read:

401.573. (1) The sheriff of each county shall adopt a search and rescue plan for the county. The search and rescue plan shall set forth search and rescue policies, **including policies for implementation of multicounty search and rescue activities**, for the county **that comply with the relevant provisions of the National Incident Management System Incident Command System established by Homeland Security Presidential Directive 5 of February 28, 2003**, and shall describe procedures for implementing those policies. A county search and rescue plan shall list and describe materials, **mutual aid agreements**, equipment and personnel available within the county for search and rescue incidents. The plan shall also include:

(a) A detailed description of activities and circumstances that constitute search and rescue in the county.

(b) Identification of volunteer organizations available to the county for use for search and rescue.

(c) Procedures for contacting and requesting assistance from volunteer organizations during search and rescue activities.

(d) Procedures for contacting and requesting available assistance from other agencies and groups.

(e) Minimum standards for individuals whose technical or professional skills may be required for search and rescue.

(2) A county search and rescue plan adopted under this section shall require a person in charge of a search and rescue to complete a fact sheet for the incident. The fact sheet shall contain the incident number assigned under ORS 401.580 for search and rescue and such other information required under the search and rescue plan of the county.

(3) The sheriff of each county shall review and, if necessary or desirable, revise the search and rescue plan annually. After the initial adoption of a search and rescue plan under this section and after each annual review or revision of the plan, the sheriff shall submit the plan to the Search and Rescue Coordinator appointed under ORS 401.550.

(4) The Office of Emergency Management, after consultation with the Oregon State Sheriffs' Association, may establish guidelines for county search and rescue plans.

(5) The Office of Emergency Management shall annually publish and distribute to the sheriff of each county a search and rescue resource inventory, which shall include materials, equipment and personnel available from counties, agencies and the State of Oregon for use in search and rescue incidents.

SECTION 3. ORS 401.576 is amended to read:

401.576. (1) After a search and rescue, *[that, in the opinion of the sheriff, is other than routine or upon request for a critique from an individual directly involved in the incident,]* the sheriff of the county in which the search and rescue took place shall conduct a critique of the incident:

(a) If, in the opinion of the sheriff, the critique would be useful; or

(b) Upon request from an individual directly involved in the incident.

(2) As part of the critique, the sheriff shall examine the search and rescue report and may receive testimony and information from persons involved in the incident.

(3) When a critique of a search and rescue is conducted under this section, the sheriff shall prepare findings of fact concerning the search and rescue, **including the investigatory component**, and may prepare recommendations for the conduct of future incidents or propose amendments to the search and rescue plan under which the search and rescue was conducted.

(4) If amendments to the search and rescue plan are proposed and adopted, the sheriff shall file the amended search and rescue plan with the Office of Emergency Management.

(5) The office shall, in consultation with the Oregon State Sheriffs' Association, develop a standardized critique form to be used in the search and rescue critiques performed by a sheriff under this section.

SECTION 4. (1) **If a peace officer has probable cause to believe that an individual is missing and in danger, the officer may request that the Attorney General, a district attorney, a city or county attorney or a circuit court judge execute in writing and cause to be served an investigative subpoena upon an individual who is believed, by the Attorney General, the district attorney, the city or county attorney or circuit court judge, to have information, documents or physical evidence that may be useful in locating the missing person.**

(2) The investigative subpoena requires the person, under oath or otherwise, to appear and testify, to answer written interrogatories or to produce documents or physical evidence for examination, at a reasonable time and place as may be stated in the subpoena, to further the investigation into the whereabouts of the missing individual.

(3) Information, documents or physical evidence obtained pursuant to this section may not be used for criminal investigation or prosecution.

(4) This section does not alter the status of information, documents or physical evidence disclosed. Notwithstanding disclosure for the purpose of locating a missing individual, confidential information, documents or physical evidence retain their confidential status.

SECTION 5. (1) As used in this section:

(a) "Employee" means an individual, other than a copartner of the employer or an independent contractor, who renders personal services in this state to an employer that pays or agrees to pay wages or other compensation to the individual for those services.

(b) "Employer" means a person who employs one or more employees in this state. "Employer" includes the State of Oregon or a county, city, district, authority, public corporation or entity and any of their instrumentalities organized and existing under law or charter, but does not include the federal government.

(2) Upon request of an employee who is a search and rescue volunteer accepted to participate in search and rescue activities by the sheriff, an employer may grant a leave of absence to the employee until release from the search and rescue activities permits the employee to resume the duties of employment.

(3) The regular employment position of an employee on leave of absence under this section is considered vacant only for the period of the leave of absence. The employee is not subject to removal or discharge from the position as a consequence of the leave of absence.

(4) Upon the termination of a leave of absence under this section, the employer shall restore the employee to the employee's position or an equivalent position without loss of seniority, vacation credits, sick leave credits, service credits under a pension plan or any other employee benefit or right that had been earned at the time of the leave of absence.

(5) An employer is not required to pay wages or other monetary compensation to an employee during a leave of absence under this section.

SECTION 6. Sections 4 and 5 of this 2007 Act are added to and made a part of ORS 401.355 to 401.580.

SECTION 7. ORS 401.635 is repealed.

SECTION 8. ORS 401.627 is amended to read:

401.627. [No] A person may **not** maintain an action against the manufacturer, distributor or supplier of an electronic signaling device for any loss or damage incurred during wilderness travel or mountain climbing, based on a claim that [*such a*] **the** device failed to function successfully unless the person shows that the failure resulted from:

(1) Willful or wanton misconduct of the defendant; or [*from*]

(2) The defendant's distributing or supplying [*such a*] **the** device having actual knowledge that [*it fails to meet the specifications referred to in ORS 401.635*] **the device is unsuitable for the purpose.**

Passed by Senate May 15, 2007

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Secretary of Senate

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President of Senate

Passed by House June 5, 2007

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Speaker of House

Received by Governor:

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Approved:

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Governor

Filed in Office of Secretary of State:

.....M,....., 2007

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Secretary of State