

A-Engrossed
Senate Bill 1002

Ordered by the Senate May 11
Including Senate Amendments dated May 11

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

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

[Requires counties to include in search and rescue plan information about qualifications or credentials of personnel and volunteers available within county to participate in search and rescue activities.]

Requires sheriff or authorized individual to include procedures for multicounty search and rescue plan. Requires multicounty search and rescue procedures to comply with National Incident Management System Incident Command System. Modifies criteria under which sheriff must conduct critique of search and rescue.

Establishes process by which peace officer may obtain confidential information for use in finding missing individual.

A BILL FOR AN ACT

1
2 Relating to search and rescue; creating new provisions; amending ORS 401.560, 401.573, 401.576 and
3 401.627; and repealing ORS 401.635.

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

5 **SECTION 1.** ORS 401.560 is amended to read:

6 401.560. (1) The sheriff of each county has the responsibility for search and rescue activities
7 within the county. The duty of a sheriff under this subsection may be delegated to a qualified
8 deputy or emergency service worker.

9 (2) If the sheriff does not accept the responsibility for search and rescue activities, the chief
10 executive of the county shall designate the county emergency program manager to perform the du-
11 ties and responsibilities required under ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to
12 401.580.

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

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

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

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

24 **(b) If the appropriate sheriff or the authorized individual does not assume command as**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

1 **described in paragraph (a) of this subsection, the sheriff who received the initial call shall**
2 **take charge of the multicounty search and rescue.**

3 **SECTION 2.** ORS 401.573 is amended to read:

4 401.573. (1) The sheriff of each county shall adopt a search and rescue plan for the county. The
5 search and rescue plan shall set forth search and rescue policies, **including policies for imple-**
6 **mentation of multicounty search and rescue activities,** for the county **that comply with the**
7 **relevant provisions of the National Incident Management System Incident Command System**
8 **established by Homeland Security Presidential Directive 5 of February 28, 2003,** and shall de-
9 scribe procedures for implementing those policies. A county search and rescue plan shall list and
10 describe materials, **mutual aid agreements,** equipment and personnel available within the county
11 for search and rescue incidents. The plan shall also include:

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

14 (b) Identification of volunteer organizations available to the county for use for search and res-
15 cue.

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

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

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

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

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

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

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

36 **SECTION 3.** ORS 401.576 is amended to read:

37 401.576. (1) After a search and rescue, [*that, in the opinion of the sheriff, is other than routine*
38 *or upon request for a critique from an individual directly involved in the incident,*] the sheriff of the
39 county in which the search and rescue took place shall conduct a critique of the incident:

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

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

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

44 (3) When a critique of a search and rescue is conducted under this section, the sheriff shall
45 prepare findings of fact concerning the search and rescue, **including the investigatory component,**

1 and may prepare recommendations for the conduct of future incidents or propose amendments to the
2 search and rescue plan under which the search and rescue was conducted.

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

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

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

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

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

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

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

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

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

31 (2) Upon request of an employee who is a search and rescue volunteer accepted to partici-
32 pate in search and rescue activities by the sheriff, an employer may grant a leave of ab-
33 sence to the employee until release from the search and rescue activities permits the
34 employee to resume the duties of employment.

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

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

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

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

1 **SECTION 7. ORS 401.635 is repealed.**

2 **SECTION 8.** ORS 401.627 is amended to read:

3 401.627. [No] **A** person may **not** maintain an action against the manufacturer, distributor or
4 supplier of an electronic signaling device for any loss or damage incurred during wilderness travel
5 or mountain climbing, based on a claim that [*such a*] **the** device failed to function successfully unless
6 the person shows that the failure resulted from:

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

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

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