

SENATE AMENDMENTS TO SENATE BILL 1002

By JOINT COMMITTEE ON EMERGENCY PREPAREDNESS AND OCEAN POLICY

May 11

1 On page 1 of the printed bill, line 2, after the semicolon delete the rest of the line and insert
2 “creating new provisions; amending ORS 401.560, 401.573, 401.576 and 401.627; and repealing ORS
3 401.635.”.

4 Delete lines 4 through 31 and delete page 2 and insert:

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 pro-*
17 *gram manager in coordinating search and rescue activities in the county of the sheriff and in regis-*
18 *tering 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**
25 **described in paragraph (a) of this subsection, the sheriff who received the initial call shall**
26 **take charge of the multicounty search and rescue.**

27 “**SECTION 2.** ORS 401.573 is amended to read:

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

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

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

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

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

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

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

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

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

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

25 “**SECTION 3.** ORS 401.576 is amended to read:

26 “401.576. (1) After a search and rescue, [*that, in the opinion of the sheriff, is other than routine*
27 *or upon request for a critique from an individual directly involved in the incident,*] the sheriff of the
28 county in which the search and rescue took place shall conduct a critique of the incident:

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

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

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

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

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

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

42 “**SECTION 4.** (1) **If a peace officer has probable cause to believe that an individual is**
43 **missing and in danger, the officer may request that the Attorney General, a district attor-**
44 **ney, a city or county attorney or a circuit court judge execute in writing and cause to be**
45 **served an investigative subpoena upon an individual who is believed, by the Attorney General,**

1 the district attorney, the city or county attorney or circuit court judge, to have information,
2 documents or physical evidence that may be useful in locating the missing person.

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

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

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

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

13 “(a) ‘Employee’ means an individual, other than a copartner of the employer or an inde-
14 pendent contractor, who renders personal services in this state to an employer that pays or
15 agrees to pay wages or other compensation to the individual for those services.

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

20 “(2) Upon request of an employee who is a search and rescue volunteer accepted to par-
21 ticipate in search and rescue activities by the sheriff, an employer may grant a leave of ab-
22 sence to the employee until release from the search and rescue activities permits the
23 employee to resume the duties of employment.

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

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

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

33 “SECTION 6. Sections 4 and 5 of this 2007 Act are added to and made a part of ORS
34 401.355 to 401.580.

35 “SECTION 7. ORS 401.635 is repealed.

36 “SECTION 8. ORS 401.627 is amended to read:

37 “401.627. [No] A person may **not** maintain an action against the manufacturer, distributor or
38 supplier of an electronic signaling device for any loss or damage incurred during wilderness travel
39 or mountain climbing, based on a claim that [such a] **the** device failed to function successfully unless
40 the person shows that the failure resulted from:

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

42 “(2) The defendant’s distributing or supplying [such a] **the** device having actual knowledge that
43 [it fails to meet the specifications referred to in ORS 401.635] **the device is unsuitable for the pur-**
44 **pose.”**