

House Bill 2879

Sponsored by Representative BARKER; Representatives KRIEGER, OLSON, SCHAUFLEER, WHISNANT, WITT (at the request of Special Districts Association of Oregon)

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 **as introduced**.

Extends landowner immunity for public's recreational use of land, woodcutting and harvest of special forest products to paths, trails, roads, watercourses and other rights of way that are used by person to reach land for recreational purposes, woodcutting or harvest of special forest products. Requires that right of way must be on land that is adjacent to land that person intends to use for recreational purposes, woodcutting or harvest of special forest products.

Allows landowner to receive liquidated damages in amount not to exceed \$1,000 in action in which landowner establishes that landowner closed land of landowner to certain activities and defendant entered upon land and engaged in prohibited activities without permission of landowner.

A BILL FOR AN ACT

1
2 Relating to use of land; creating new provisions; and amending ORS 105.672, 105.688 and 105.700.

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

4 **SECTION 1.** ORS 105.672 is amended to read:

5 105.672. As used in ORS 105.672 to 105.696:

6 (1) "Charge":

7 (a) Means the admission price or fee requested or expected by an owner in return for granting
8 permission for a person to enter or go upon the owner's land.

9 (b) Does not mean any amount received from a public body in return for granting permission for
10 the public to enter or go upon the owner's land.

11 (2) "Harvest" has that meaning given in ORS 164.813.

12 (3) "Land" includes all real property, whether publicly or privately owned.

13 (4) "Owner" means the possessor of any interest in any land, *[including but not limited to pos-*
14 *session of a fee title. "Owner" includes]* **such as the holder of a fee title, a tenant, a lessee, an**
15 **occupant, the holder of an easement, the holder of a right of way** or *[other]* **a person in pos-**
16 **session of the land.**

17 (5) "Recreational purposes" includes, but is not limited to, outdoor activities such as hunting,
18 fishing, swimming, boating, camping, picnicking, hiking, nature study, outdoor educational activities,
19 waterskiing, winter sports, viewing or enjoying historical, archaeological, scenic or scientific sites
20 or volunteering for any public purpose project.

21 (6) "Special forest products" has that meaning given in ORS 164.813.

22 (7) "Woodcutting" means the cutting or removal of wood from land by an individual who has
23 obtained permission from the owner of the land to cut or remove wood.

24 **SECTION 2.** ORS 105.688 is amended to read:

25 105.688. (1) Except as specifically provided in ORS 105.672 to 105.696, the immunities provided
26 by ORS 105.682 apply to:

27 (a) All *[public and private lands]* **land**, including but not limited to *[lands]* **land** adjacent or

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 contiguous to any bodies of water, watercourses or the ocean shore as defined by ORS 390.605;

2 (b) All roads, bodies of water, watercourses, rights of way, buildings, fixtures and structures on
 3 the *[lands]* **land** described in paragraph (a) of this subsection; *[and]*

4 **(c) All paths, trails, roads, watercourses and other rights of way that are used by a**
 5 **person to reach land for recreational purposes, woodcutting or the harvest of special forest**
 6 **products, and that are on land adjacent to the land that the person intends to use for rec-**
 7 **reational purposes, woodcutting or the harvest of special forest products; and**

8 *[(c)]* (d) All machinery or equipment on the *[lands]* **land** described in paragraph (a) of this sub-
 9 section.

10 (2) The immunities provided by ORS 105.682 apply only if:

11 (a) The owner makes no charge for permission to use the land;

12 (b) The owner transfers an easement to a public body to use the land; or

13 (c) The owner charges no more than \$75 per cord for permission to use the land for woodcutting.

14 **SECTION 3.** ORS 105.700 is amended to read:

15 105.700. (1) In addition to and not in lieu of any other damages that may be claimed, a plaintiff
 16 who is a landowner shall receive liquidated damages in an amount not to exceed \$1,000 in any
 17 action in which the plaintiff establishes that:

18 (a) The plaintiff closed the land of the plaintiff as provided in subsection (2) of this section[;],
 19 and

20 *[(b)]* the defendant entered and remained upon the land of the plaintiff without the permission
 21 of the plaintiff; **or**

22 **(b) The plaintiff closed the land of the plaintiff to certain activities as provided in sub-**
 23 **section (3) of this section, and the defendant entered upon the land of the plaintiff and en-**
 24 **gaged in the prohibited activities without the permission of the plaintiff.**

25 (2) A landowner or an agent of the landowner may close the *[privately owned]* land of the land-
 26 owner **to all activities** by posting notice as follows:

27 (a) For land through which the public has no right of way, the landowner or agent must place
 28 a notice at each outer gate and normal point of access to the land, including both sides of a body
 29 of water that crosses the land wherever the body of water intersects an outer boundary line. The
 30 notice must be placed on a post, structure or natural object in the form of a sign or a blaze of paint.
 31 If a blaze of paint is used, it must consist of at least 50 square inches of fluorescent orange paint,
 32 except that when metal fence posts are used, approximately the top six inches of the fence post must
 33 be painted. If a sign is used, the sign:

34 (A) Must be no smaller than eight inches in height and 11 inches in width;

35 (B) Must contain the words "Closed to Entry" or words to that effect in letters no less than one
 36 inch in height; and

37 (C) Must display the name, business address and phone number, if any, of the landowner or
 38 agent of the landowner.

39 (b) For land through which or along which the public has an unfenced right of way by means
 40 of a public road, the landowner or agent must place:

41 (A) A conspicuous sign no closer than 30 feet from the center line of the *[roadway where it]*
 42 **public road where the public road** enters the land, containing words substantially similar to
 43 "PRIVATE PROPERTY, NO TRESPASSING OFF ROAD NEXT _____ MILES"; or

44 (B) A sign or blaze of paint, as described in paragraph (a) of this subsection, no closer than 30
 45 feet from the center line of the *[roadway]* **public road** at regular intervals of not less than one-

1 fourth mile along the [*roadway where it*] **public road where the public road** borders the land, ex-
2 cept that a blaze of paint may not be placed on posts where the public road enters the land.

3 **(3) A landowner or an agent of the landowner may close the land of the landowner to**
4 **specific activities by posting notice as follows:**

5 **(a) For land through which the public has no right of way, the landowner or agent must**
6 **place a sign at each outer gate and normal point of access to the land, including both sides**
7 **of a body of water that crosses the land wherever the body of water intersects an outer**
8 **boundary line. The sign must be placed on a post, structure or natural object, must be no**
9 **smaller than eight inches in height and 11 inches in width, must clearly state the types of**
10 **activities that are prohibited on the land in letters no less than one inch in height, and must**
11 **display the name, business address and phone number, if any, of the landowner or agent.**

12 **(b) For land through which or along which the public has an unfenced right of way by**
13 **means of a public road, the landowner or agent must place a conspicuous sign as described**
14 **in paragraph (a) of this subsection, no closer than 30 feet from the center line of the public**
15 **road where the public road enters the land, that clearly states the types of activities that**
16 **are prohibited on the land, or must place a sign as described in paragraph (a) of this sub-**
17 **section, no closer than 30 feet from the center line of the public road, at regular intervals**
18 **of not less than one-fourth mile along the public road where the public road borders the land.**

19 [(3)] **(4) Nothing contained in this section prevents emergency or law enforcement vehicles from**
20 **entering upon the posted land.**

21 [(4)] **(5) An award of liquidated damages under this section is not subject to ORS 31.725, 31.730**
22 **or 31.735.**

23 [(5)] **(6) Nothing in this section affects any other remedy, civil or criminal, that may be available**
24 **for a trespass described in this section.**

25 **(7) As used in this section:**

26 **(a) "Land" has the meaning given that term in ORS 105.672.**

27 **(b) "Landowner" means an owner as defined in ORS 105.672.**

28 **SECTION 4. The amendments to ORS 105.688 by section 2 of this 2009 Act apply only to**
29 **causes of action that arise on or after the effective date of this 2009 Act.**

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