

# Senate Bill 147

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## 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**.

Changes definitions for landscape construction professional and landscape contracting business. Makes persons exempted from other landscaping laws subject to prohibitions against misleading or false advertising or other representations regarding licensure status.

## A BILL FOR AN ACT

1  
2 Relating to landscaping; amending ORS 671.520, 671.540 and 671.571.

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

4 **SECTION 1.** ORS 671.520 is amended to read:

5 671.520. As used in ORS 671.510 to 671.760, unless the context requires otherwise:

6 (1) "Landscape construction professional" means an individual who for compensation or with the  
7 intent to be compensated performs or supervises activities requiring the art, ability, experience,  
8 knowledge, science and skill to:

9 (a) Plan or install lawns, shrubs, vines, trees or nursery stock;

10 (b) Prepare property on which lawns, shrubs, vines, trees or nursery stock is to be installed;

11 (c) Construct or repair ornamental water features, drainage systems or irrigation systems; [*or*]

12 **(d) Maintain irrigation systems with the use of compressed air; or**

13 [*(d)*] **(e)** Plan or install fences, decks, arbors, patios, landscape edging, driveways, walkways or  
14 retaining walls.

15 (2) "Landscape contracting business" means a business that for compensation or with the intent  
16 to be compensated arranges, [*for or*] submits a bid, or otherwise offers or contracts, [*to provide the*  
17 *services of a landscape construction professional*] **for the performance of activities described in**  
18 **subsection (1) of this section.**

19 (3) "Licensee" means a person that is licensed under ORS 671.510 to 671.760 as a landscape  
20 construction professional or landscape contracting business.

21 (4) "Nursery stock" means nursery stock:

22 (a) As defined by ORS 571.005 other than stock grown for commercial resale or reforestation;

23 or

24 (b) As defined by the State Landscape Contractors Board by rule.

25 (5) "Ornamental water features" means fountains, ponds, waterfalls, man-made streams and other  
26 decorative water-related constructions as identified by the board by rule.

27 **SECTION 2.** ORS 671.540 is amended to read:

28 671.540. **(1) Except as provided in subsection (2) of this section,** ORS 671.510 to 671.760 and  
29 671.990 (2) do not apply to:

30 [*(1)*] **(a)** Any federal or state agency or any political subdivision performing landscaping work

**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 on public property.

2 [(2)] (b) Any landscape architect registered under ORS 671.310 to 671.459 and practicing as  
3 provided under ORS 671.310 to 671.459.

4 [(3)] (c) Landscaping work performed by a landscape maintenance business if:

5 [(a)] (A) The landscaping work is performed for a customer that in a calendar year receives  
6 primarily landscape maintenance services from the business;

7 [(b)] (B) The value of all labor, materials or other items supplied for landscaping work at a job  
8 site does not exceed \$500 in a calendar year; and

9 [(c)] (C) The landscaping work is of a casual, minor or inconsequential nature, as those terms  
10 are defined by the State Landscape Contractors Board by rule.

11 [(4)] (d) Installation of fences, decks, arbors, driveways, walkways or retaining walls if per-  
12 formed by a person or business licensed with the Construction Contractors Board.

13 [(5)] (e) Rough grading of plots and areas of land performed in conjunction with new or remod-  
14 eling construction if performed by a person or business licensed with the Construction Contractors  
15 Board.

16 [(6)] (f) Any owner of property, **or employee of an owner of property**, who contracts for  
17 landscaping work **on the property** to be performed by a person licensed under ORS 671.560. The  
18 exception provided by this [subsection] **paragraph** does not apply to a person who, in pursuit of an  
19 independent business, performs or contracts for the performance of landscaping work with the intent  
20 of offering for sale before, upon or after completion of the landscaping work the property upon  
21 which the landscaping work is performed.

22 [(7)] (g) Any landscaping work performed by a person on property that the person owns or in  
23 which the person has a legal interest. The exception provided by this [subsection] **paragraph** does  
24 not apply to a person who, in pursuit of an independent business, performs or contracts for the  
25 performance of landscaping work with the intent of offering for sale before, upon or after completion  
26 of the landscaping work the property on which the landscaping work is performed.

27 [(8)] (h) A general contractor licensed under ORS chapter 701 who performs landscaping work  
28 if the total value of the landscaping is less than \$2,500 per residential dwelling and the landscaping  
29 work is performed on residential property for which the contractor is under contract for the con-  
30 struction of a new dwelling. The exception provided by this [subsection] **paragraph** does not apply  
31 to the performance of irrigation work by a general contractor. The State Landscape Contractors  
32 Board shall revise the amount specified in this [subsection] **paragraph** every five years, beginning  
33 in 2003, based on changes in the Portland-Salem, OR-WA Consumer Price Index for All Urban Con-  
34 sumers for All Items as published by the Bureau of Labor Statistics of the United States Department  
35 of Labor.

36 [(9)] (i) A general contractor licensed under ORS chapter 701 who performs landscaping work  
37 on residential property that is directly related to local building code requirements or occupancy  
38 ordinances including, but not limited to, the placement of street trees. The exception provided by  
39 this [subsection] **paragraph** does not apply to the performance of irrigation work by a general con-  
40 tractor.

41 [(10)] (j) A person engaged in making plans or drawings for the selection, placement or use of  
42 plants or other site features, unless the plans or drawings are for the purpose of providing con-  
43 struction details and specifications.

44 [(11)] (k) Use by a person other than a landscape construction professional of the title "land-  
45 scape designer" when engaged in making plans or drawings described in [subsection (10) of this sec-

tion] **paragraph (j) of this subsection.**

[(12)] **(L)** A person providing recommendations or written specifications for soil amendments or planting media if the recommendations or specifications are solely for the purpose of plant installation.

[(13)] **(m)** A person registered under ORS 447.010 to 447.156 when performing repair and maintenance on piping for irrigation systems.

[(14)] **(n)** An employee, as defined in ORS 657.015, of a general contractor licensed under ORS chapter 701 when performing work that the contractor may perform under [subsection (8) or (9) of this section] **paragraph (h) or (i) of this subsection.**

[(15)] **(o)** An employee of a licensed landscape contracting business when performing work for the business under the direct supervision of a licensed landscape construction professional.

[(16)] **(p)** An employee of a worker leasing company or temporary service provider, both as defined in ORS 656.850, when performing work for a licensed landscape contracting business under the direct supervision of a licensed landscape construction professional.

**(2) ORS 671.530 (2), (4) and (5) apply to a person described under subsection (1) of this section.**

**SECTION 3.** ORS 671.540, as amended by section 50, chapter 836, Oregon Laws 2007, is amended to read:

671.540. **(1) Except as provided in subsection (2) of this section,** ORS 671.510 to 671.760 and 671.990 (2) do not apply to:

[(1)] **(a)** Any federal or state agency or any political subdivision performing landscaping work on public property.

[(2)] **(b)** Any landscape architect registered under ORS 671.310 to 671.459 and practicing as provided under ORS 671.310 to 671.459.

[(3)] **(c)** Landscaping work performed by a landscape maintenance business if:

[(a)] **(A)** The landscaping work is performed for a customer that in a calendar year receives primarily landscape maintenance services from the business;

[(b)] **(B)** The value of all labor, materials or other items supplied for landscaping work at a job site does not exceed \$500 in a calendar year; and

[(c)] **(C)** The landscaping work is of a casual, minor or inconsequential nature, as those terms are defined by the State Landscape Contractors Board by rule.

[(4)] **(d)** Installation of fences, decks, arbors, driveways, walkways or retaining walls if performed by a person or business licensed with the Construction Contractors Board.

[(5)] **(e)** Rough grading of plots and areas of land performed in conjunction with new or remodeling construction if performed by a person or business licensed with the Construction Contractors Board.

[(6)] **(f)** Any owner of property, **or employee of an owner of property,** who contracts for landscaping work **on the property** to be performed by a person licensed under ORS 671.560. The exception provided by this [subsection] **paragraph** does not apply to a person who, in pursuit of an independent business, performs or contracts for the performance of landscaping work with the intent of offering for sale before, upon or after completion of the landscaping work the property upon which the landscaping work is performed.

[(7)] **(g)** Any landscaping work performed by a person on property that the person owns or in which the person has a legal interest. The exception provided by this [subsection] **paragraph** does not apply to a person who, in pursuit of an independent business, performs or contracts for the

1 performance of landscaping work with the intent of offering for sale before, upon or after completion  
2 of the landscaping work the property on which the landscaping work is performed.

3 [(8)] (h) A residential general contractor licensed under ORS chapter 701 who performs land-  
4 scaping work if the total value of the landscaping is less than \$2,500 per residential dwelling and  
5 the landscaping work is performed on residential property for which the contractor is under con-  
6 tract for the construction of a new dwelling. The exception provided by this [subsection] **paragraph**  
7 does not apply to the performance of irrigation work by a residential general contractor. The State  
8 Landscape Contractors Board shall revise the amount specified in this [subsection] **paragraph** every  
9 five years, beginning in 2003, based on changes in the Portland-Salem, OR-WA Consumer Price Index  
10 for All Urban Consumers for All Items as published by the Bureau of Labor Statistics of the United  
11 States Department of Labor.

12 [(9)] (i) A residential general contractor licensed under ORS chapter 701 who performs land-  
13 scaping work on residential property that is directly related to local building code requirements or  
14 occupancy ordinances including, but not limited to, the placement of street trees. The exception  
15 provided by this [subsection] **paragraph** does not apply to the performance of irrigation work by a  
16 **residential** general contractor.

17 [(10)] (j) A person engaged in making plans or drawings for the selection, placement or use of  
18 plants or other site features, unless the plans or drawings are for the purpose of providing con-  
19 struction details and specifications.

20 [(11)] (k) Use by a person other than a landscape construction professional of the title "land-  
21 scape designer" when engaged in making plans or drawings described in [subsection (10) of this sec-  
22 tion] **paragraph (j) of this subsection.**

23 [(12)] (L) A person providing recommendations or written specifications for soil amendments or  
24 planting media if the recommendations or specifications are solely for the purpose of plant installa-  
25 tion.

26 [(13)] (m) A person registered under ORS 447.010 to 447.156 when performing repair and main-  
27 tenance on piping for irrigation systems.

28 [(14)] (n) An employee, as defined in ORS 657.015, of a residential general contractor licensed  
29 under ORS chapter 701 when performing work that the contractor may perform under [subsection (8)  
30 or (9) of this section] **paragraph (h) or (i) of this subsection.**

31 [(15)] (o) An employee of a licensed landscape contracting business when performing work for  
32 the business under the direct supervision of a licensed landscape construction professional.

33 [(16)] (p) An employee of a worker leasing company or temporary service provider, both as de-  
34 fined in ORS 656.850, when performing work for a licensed landscape contracting business under the  
35 direct supervision of a licensed landscape construction professional.

36 **(2) ORS 671.530 (2), (4) and (5) apply to a person described under subsection (1) of this**  
37 **section.**

38 **SECTION 4.** ORS 671.571 is amended to read:

39 671.571. (1) Notwithstanding ORS 671.570, the State Landscape Contractors Board may issue a  
40 probationary landscape construction professional license to a person who does not meet the training  
41 and experience qualifications set forth in ORS 671.570. To obtain a probationary landscape con-  
42 struction professional license, the person must:

43 (a) Pay a nonrefundable application fee;

44 (b) Pay an examination fee;

45 (c) Pay to the board the landscape construction professional license fee required by ORS 671.650;

1 and

2 (d) Pass all sections of the examination described in ORS 671.570 within 12 months after first  
3 taking the examination.

4 (2) Two or more years after receiving a probationary landscape construction professional li-  
5 cense, a probationary landscape construction professional may obtain removal from probationary  
6 status and issuance of a landscape construction professional license if the probationary landscape  
7 construction professional presents the board with proof that the probationary landscape con-  
8 struction professional has done any of the following:

9 (a) Completed at least 24 months of employment with a licensed landscape contracting business  
10 under the direct supervision of a landscape construction professional.

11 (b) Provided supervision described in ORS 671.540 [(15)] (1)(o) or 671.565 (1)(b) for at least 24  
12 months as the owner or employee of a licensed landscape contracting business that, during that  
13 period:

14 (A) Filed and maintained with the board a bond, letter of credit or deposit in the amount of  
15 \$15,000; and

16 (B) Performed landscaping work only on landscaping projects where the amount charged by the  
17 landscape contracting business for work on the project during any 12-month period did not exceed  
18 \$15,000.

19 (c) Actively operated for at least 24 months as a construction contractor licensed under ORS  
20 chapter 701.

21 (3) Except as provided in this section and ORS 671.560 and as the board may provide by rule,  
22 a probationary landscape construction professional licensed under this section is for all purposes a  
23 landscape construction professional licensed under ORS 671.560.

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