

**A-Engrossed**  
**Senate Bill 191**

Ordered by the Senate March 30  
Including Senate Amendments dated March 30

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Theodore R. Kulongoski for State Department of Geology and Mineral Industries)

**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.

Adds exemption from surface mining reclamation requirements for certain mining operations that were exempt by county. Requires landowner or operator to complete erosion stabilization for mining operations exempt from reclamation requirements. Establishes requirements for continued operation of mining operations that previously operated under permit from county.

Declares emergency, effective on passage.

**A BILL FOR AN ACT**

1  
2 Relating to surface mining operations; amending ORS 517.770, 517.775 and 517.780; and declaring an  
3 emergency.

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

5 **SECTION 1.** ORS 517.770 is amended to read:

6 517.770. (1) The following mining operations are exempt from the reclamation requirements set  
7 forth in ORS 517.702 to 517.989:

8 (a) Lands within the surfaces and contours of surface mines in existence on July 1, 1972, or  
9 vertical extensions of those surfaces and contours, provided that the State Department of Geology  
10 and Mineral Industries [*issues*] **issued** a certificate of exemption to the mining operation on or be-  
11 fore October 31, 2000[;].

12 **(b) Lands within the surfaces and contours of surface mines in existence on July 1, 1972,**  
13 **or vertical extensions of those surfaces and contours, provided that:**

14 **(A) The surface mining operations at the site were allowed under a comparable certif-**  
15 **icate of exemption that was issued by a county and current on the date of repeal of a county**  
16 **zoning law or ordinance described in ORS 517.780 (1); and**

17 **(B) The landowner or operator applies for and receives a certificate of exemption from**  
18 **the department. An application for a certificate of exemption must be filed with the depart-**  
19 **ment within 90 days after the date the county's repeal of a zoning law or ordinance becomes**  
20 **effective. If the department does not approve or disapprove the application within 90 days**  
21 **after the date the application is filed with the department, the application will be deemed to**  
22 **be approved.** [*and*]

23 [*(b)*] (c) Lands within the surfaces and contours of surface mining operations that are owned or  
24 operated by a person that, on July 1, 1972, was a party to a surface mining contract that was valid  
25 on January 1, 1971, provided that the department issued a certificate of exemption to the mining

**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 operation on or before September 20, 1985.

2 (2) A certificate of exemption terminates if the landowner or operator does not renew the cer-  
3 tificate annually.

4 **SECTION 2.** ORS 517.775 is amended to read:

5 517.775. Notwithstanding the provisions of ORS 517.770:

6 (1) Any landowner or operator conducting surface mining on July 1, 1972, shall pay the permit  
7 fee as provided in ORS 517.800; and

8 (2) The State Department of Geology and Mineral Industries shall require the landowner or op-  
9 erator to complete erosion stabilization upon completion of mining at *[the limited exempt site]* a  
10 **mining operation exempt from reclamation under ORS 517.770.**

11 **SECTION 3.** ORS 517.780 is amended to read:

12 517.780. (1)(a) The provisions of ORS 517.702 to 517.989 and the rules and regulations adopted  
13 thereunder do not supersede any **county** zoning laws or ordinances in effect on July 1, 1972.  
14 However, if the **county** zoning laws or ordinances are repealed on or after July 1, 1972, the pro-  
15 visions of ORS 517.702 to 517.989 and the rules and regulations adopted thereunder are controlling.  
16 The governing board of the State Department of Geology and Mineral Industries may adopt rules  
17 and regulations with respect to matters covered by **county** zoning laws and ordinances in effect on  
18 July 1, 1972.

19 **(b) If the county zoning laws or ordinances specified in paragraph (a) of this subsection**  
20 **are repealed by a county:**

21 **(A) The department may allow a surface mining operation that previously operated under**  
22 **a valid county operating permit and reclamation plan to continue to operate for a period not**  
23 **to exceed one year if the landowner or operator applies for an operating permit under ORS**  
24 **517.790 within 60 days after the date the county's repeal of the zoning laws or ordinances**  
25 **becomes effective, pays all applicable fees to the department and submits a bond or security**  
26 **to the department as required by ORS 517.810. Pending issuance of an operating permit and**  
27 **approval of a reclamation plan by the department, the county permit is deemed to remain**  
28 **in effect and is enforceable by the department.**

29 **(B) The department, in issuing a permit and approving a reclamation plan for a surface**  
30 **mining operation that previously operated under a valid county operating permit as described**  
31 **in paragraph (a) of this subsection, may incorporate any provisions from the county operat-**  
32 **ing permit into the permit issued by the department and the reclamation plan approved by**  
33 **the department if the department determines that the provisions provide adequate protection**  
34 **of the public health, safety and welfare and the environment.**

35 **(C) The department may issue a certificate of exemption from reclamation requirements**  
36 **as described in ORS 517.770 (1)(b).**

37 (2) City or county operated surface mining operations that sell less than 5,000 cubic yards of  
38 minerals within a period of 12 consecutive calendar months are exempt from the state mining permit  
39 requirements of ORS 517.702 to 517.989 if the city or county adopts an ordinance that includes a  
40 general reclamation scheme establishing the means and methods of achieving reclamation for city  
41 or county operated surface mining sites exempted from the state permit requirements by this sub-  
42 section.

43 **SECTION 4. This 2009 Act being necessary for the immediate preservation of the public**  
44 **peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect**  
45 **on its passage.**

