

A-Engrossed
House Bill 3673

Ordered by the House February 16
Including House Amendments dated February 16

Sponsored by COMMITTEE ON RULES

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.

Modifies laws governing immunities provided to landowner that allows use of land for recreational purposes, gardening, woodcutting or harvest of special forest products.

Provides that if owner imposes charge in excess of specified amounts for permission to use land, immunities continue to apply to uses of land other than activities for which charge is imposed.

Provides that if owner imposes charge in excess of specified amounts for permission to use specific part of owner's land **and provides notice of use limitations and immunities**, immunities apply to remainder of owner's land.

Allows landowner to charge [*daily parking fee of \$_____ or less*] **fee of \$15 or less per day for winter recreation parking permit or any other parking** without loss of immunities.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to landowner liability; creating new provisions; amending ORS 105.672 and 105.688; and
3 declaring an emergency.

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

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

6 105.672. As used in ORS 105.672 to 105.696:

7 (1) "Charge":

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

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

12 (c) **Does not include the fee for a winter recreation parking permit or any other parking**
13 **fee of \$15 or less per day.**

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

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

16 (4) "Owner" means the possessor of any interest in any land, such as the holder of a fee title,
17 a tenant, a lessee, an occupant, the holder of an easement, the holder of a right of way or a person
18 in possession of the land.

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

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

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

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

4 105.688. (1) Except as specifically provided in ORS 105.672 to 105.696, the immunities provided
5 by ORS 105.682 apply to:

6 (a) All land, including but not limited to land adjacent or contiguous to any bodies of water,
7 watercourses or the ocean shore as defined by ORS 390.605;

8 (b) All roads, bodies of water, watercourses, rights of way, buildings, fixtures and structures on
9 the land described in paragraph (a) of this subsection;

10 (c) All paths, trails, roads, watercourses and other rights of way while being used by a person
11 to reach land for recreational purposes, gardening, woodcutting or the harvest of special forest
12 products, that are on land adjacent to the land that the person intends to use for recreational pur-
13 poses, gardening, woodcutting or the harvest of special forest products, and that have not been im-
14 proved, designed or maintained for the specific purpose of providing access for recreational
15 purposes, gardening, woodcutting or the harvest of special forest products; and

16 (d) All machinery or equipment on the land described in paragraph (a) of this subsection.

17 (2) The immunities provided by ORS 105.682 [*for recreational purposes and for the harvest of*
18 *special forest products*] apply **to land** [*only*] if[.]:

19 [(a)] the owner transfers an easement to a public body to use the land[; or].

20 [(b)] *The owner makes no charge for permission to use the land.*]

21 **(3) Except as provided in subsections (4) to (7) of this section, the immunities provided**
22 **by ORS 105.682 do not apply if the owner makes any charge for permission to use the land**
23 **for recreational purposes, gardening, woodcutting or the harvest of special forest products.**

24 [(3)] *The immunities provided by ORS 105.682 for gardening apply only if the owner charges no*
25 *more than \$25 per year for the use of the land for gardening.*]

26 [(4)] *The immunities provided by ORS 105.682 for woodcutting apply only if the owner charges no*
27 *more than \$75 per cord for permission to use the land for woodcutting.*]

28 **(4) If the owner charges for permission to use the owner's land for one or more specific**
29 **recreational purposes and the owner provides notice in the manner provided by subsection**
30 **(8) of this section, the immunities provided by ORS 105.682 apply to any use of the land other**
31 **than the activities for which the charge is imposed. If the owner charges for permission to**
32 **use a specified part of the owner's land for recreational purposes and the owner provides**
33 **notice in the manner provided by subsection (8) of this section, the immunities provided by**
34 **ORS 105.682 apply to the remainder of the owner's land.**

35 **(5) The immunities provided by ORS 105.682 for gardening do not apply if the owner**
36 **charges more than \$25 per year for the use of the land for gardening. If the owner charges**
37 **more than \$25 per year for the use of the land for gardening, the immunities provided by**
38 **ORS 105.682 apply to any use of the land other than gardening. If the owner charges more**
39 **than \$25 per year for permission to use a specific part of the owner's land for gardening and**
40 **the owner provides notice in the manner provided by subsection (8) of this section, the im-**
41 **munities provided by ORS 105.682 apply to the remainder of the owner's land.**

42 **(6) The immunities provided by ORS 105.682 for woodcutting do not apply if the owner**
43 **charges more than \$75 per cord for permission to use the land for woodcutting. If the owner**
44 **charges more than \$75 per cord for the use of the land for woodcutting, the immunities**
45 **provided by ORS 105.682 apply to any use of the land other than woodcutting. If the owner**

1 charges more than \$75 per cord for permission to use a specific part of the owner's land for
2 woodcutting and the owner provides notice in the manner provided by subsection (8) of this
3 section, the immunities provided by ORS 105.682 apply to the remainder of the owner's land.

4 (7) The immunities provided by ORS 105.682 for the harvest of special forest products do
5 not apply if the owner makes any charge for permission to use the land for the harvest of
6 special forest products. If the owner charges for permission to use the owner's land for the
7 harvest of special forest products, the immunities provided by ORS 105.682 apply to any use
8 of the land other than the harvest of special forest products. If the owner charges for per-
9 mission to use a specific part of the owner's land for harvesting special forest products and
10 the owner provides notice in the manner provided by subsection (8) of this section, the im-
11 munities provided by ORS 105.682 apply to the remainder of the owner's land.

12 (8) Notices under subsections (4) to (7) of this section may be given by posting, as part
13 of a receipt, or by such other means as may be reasonably calculated to apprise a person of:

14 (a) The limited uses of the land for which the charge is made, and the immunities pro-
15 vided under ORS 105.682 for other uses of the land; or

16 (b) The portion of the land the use of which is subject to the charge, and the immunities
17 provided under ORS 105.682 for the remainder of the land.

18 SECTION 3. The amendments to ORS 105.672 and 105.688 by sections 1 and 2 of this 2010
19 Act apply only to causes of action that arise on or after the effective date of this 2010 Act.

20 SECTION 4. This 2010 Act being necessary for the immediate preservation of the public
21 peace, health and safety, an emergency is declared to exist, and this 2010 Act takes effect
22 on its passage.

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