

House Bill 3673

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 **as introduced**.

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, immunities apply to remainder of owner's land.

Allows landowner to charge daily parking fee of \$_____ or less 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 a daily parking fee of \$_____ or less.**

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

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

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

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

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

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

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

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

28 (a) All land, including but not limited to land adjacent or contiguous to any bodies of water,

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 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 land described in paragraph (a) of this subsection;

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

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

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

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

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

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

18 **(4) If the owner charges for permission to use the owner's land for a specific recreational**
19 **purpose, the immunities provided by ORS 105.682 apply to any use of the land other than the**
20 **activity for which the charge is imposed. If the owner charges for permission to use a spe-**
21 **specific part of the owner's land for recreational purposes, the immunities provided by ORS**
22 **105.682 apply to the remainder of the owner's land.**

23 [(3)] **(5) The immunities provided by ORS 105.682 for gardening do not apply** [*only*] **if the owner**
24 **charges** [*no*] **more than \$25 per year for the use of the land for gardening. If the owner charges**
25 **more than \$25 per year for the use of the land for gardening, the immunities provided by**
26 **ORS 105.682 apply to any use of the land other than gardening. If the owner charges more**
27 **than \$25 per year for permission to use a specific part of the owner's land for gardening, the**
28 **immunities provided by ORS 105.682 apply to the remainder of the owner's land.**

29 [(4)] **(6) The immunities provided by ORS 105.682 for woodcutting do not apply** [*only*] **if the**
30 **owner charges** [*no*] **more than \$75 per cord for permission to use the land for woodcutting. If the**
31 **owner charges more than \$75 per cord for the use of the land for woodcutting, the immuni-**
32 **ties provided by ORS 105.682 apply to any use of the land other than woodcutting. If the**
33 **owner charges more than \$75 per cord for permission to use a specific part of the owner's**
34 **land for woodcutting, the immunities provided by ORS 105.682 apply to the remainder of the**
35 **owner's land.**

36 **(7) The immunities provided by ORS 105.682 for the harvest of special forest products do**
37 **not apply if the owner makes any charge for permission to use the land for the harvest of**
38 **special forest products. If the owner charges for permission to use the owner's land for the**
39 **harvest of special forest products, the immunities provided by ORS 105.682 apply to any use**
40 **of the land other than the harvest of special forest products. If the owner charges for per-**
41 **mission to use a specific part of the owner's land for harvesting special forest products, the**
42 **immunities provided by ORS 105.682 apply to the remainder of the owner's land.**

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

45 **SECTION 4. This 2010 Act being necessary for the immediate preservation of the public**

1 **peace, health and safety, an emergency is declared to exist, and this 2010 Act takes effect**
2 **on its passage.**

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