

Senate Bill 1041

Sponsored by Senator PROZANSKI (at the request of John Brown) (Pre-session filed.)

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**.

Provides that certain personal property deposited, left or displayed in area under state ownership may be declared public nuisance. Allows agency, without notice, to remove personal property if property poses risk to public health, safety or welfare. Requires notice before agency may remove personal property that does not pose such risk.

Modifies provisions related to removal of personal property deposited, left or displayed on state highway.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to personal property; creating new provisions; amending ORS 377.650; and declaring an
3 emergency.

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

5 **SECTION 1. (1) Notwithstanding ORS 98.245 and 98.302 to 98.436, and except for personal**
6 **property subject to the provisions of ORS 377.650 and vehicles subject to the provisions of**
7 **ORS 98.810 to 98.818, any personal property that is not junk, as defined in ORS 377.605, that**
8 **is deposited, left or displayed in an area under state ownership may be declared a public**
9 **nuisance by any agency.**

10 **(2)(a) If the personal property declared to be a public nuisance under subsection (1) of**
11 **this section poses a risk to public health, safety or welfare, the agency that declared the**
12 **property to be a public nuisance may, without notice, remove the property and sell or oth-**
13 **erwise dispose of the property.**

14 **(b) If the personal property declared to be a public nuisance under subsection (1) of this**
15 **section poses no risk to public health, safety or welfare, the agency that declared the prop-**
16 **erty to be a public nuisance may, five days after written notice to the person owning the**
17 **property, or five days after posting a notice near the property if the owner of the property**
18 **cannot be determined, remove the property and sell or otherwise dispose of the property.**

19 **(3) If removal is performed by an agency under subsection (2) of this section, the agency**
20 **is not liable for any conversion of personal property and may collect the cost for removal**
21 **and sale or disposal of the property from the person owning the property.**

22 **(4) For purposes of this section, "agency" has the meaning given that term in ORS**
23 **183.310.**

24 **SECTION 2. ORS 377.650 is amended to read:**

25 377.650. Any personal property **that is** not [*coming within the definition of*] junk, except a vehicle
26 as defined in ORS 801.590 or a manufactured structure as defined in ORS 446.561, that is deposited,
27 left or displayed on a state highway is [*hereby found and declared to be*] a public nuisance. The Di-
28 rector of Transportation may do any of the following with respect to personal property declared to

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 be a nuisance by this section:

2 (1) Ten days after written notice is mailed to the person owning the personal property, the di-
 3 rector may institute on behalf of the Department of Transportation any legal proceedings the di-
 4 rector considers necessary to prevent the violation of this section.

5 (2) *[Ten days after written notice,]* **Without notice if the personal property poses a risk to**
 6 **public health, safety or welfare, or five days after posting a notice near the property if there**
 7 **is no such risk,** the director may remove the personal property and *[store it. After 30 days of stor-*
 8 *age, unless claimed sooner by the owner, the director may]* sell or otherwise dispose of the personal
 9 property. Where removal is performed by the director, the director *[shall not be]* **is not** liable for
 10 any conversion of personal property and may collect the cost for removal¹¹, *storage]* and sale or dis-
 11 posal of the personal property from the person owning it.

12 (3) If the property is a sign, as defined under ORS 377.710, that is portable or if the property
 13 has been repeatedly deposited, left or displayed in violation of this section, the director may follow
 14 the procedures under ORS 377.655. This subsection applies notwithstanding any other provision of
 15 this section.

16 **SECTION 3. (1) Section 1 of this 2010 Act applies to personal property deposited, left or**
 17 **displayed in an area under state ownership before, on or after the effective date of this 2010**
 18 **Act.**

19 **(2) The amendments to ORS 377.650 by section 2 of this 2010 Act apply to personal prop-**
 20 **erty deposited, left or displayed on a state highway before, on or after the effective date of**
 21 **this 2010 Act.**

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

25 _____