

# Senate Bill 264

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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**.

Exempts county roads from requirement to get new approach permit for change of use of private approach road.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to access management; creating new provisions; amending ORS 374.310, 374.315, 374.330,  
3 374.335 and 374.990; and declaring an emergency.

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

5 **SECTION 1.** ORS 374.310, as amended by section 1, chapter 31, Oregon Laws 2010, is amended  
6 to read:

7 374.310. (1) The Department of Transportation [*with respect to state highways and the county*  
8 *court or board of county commissioners with respect to county roads*] shall adopt reasonable rules [*and*  
9 *regulations*] and may issue permits, not inconsistent with law, for the use of the rights of way of  
10 [*such*] **state** highways [*and roads*] for the purposes described in ORS 374.305. However, the de-  
11 partment may not issue a permit for the construction of any approach road at a location where no  
12 rights of access exist between the highway and abutting real property.

13 (2) Such rules [*and regulations*] and such permits shall include such provisions, terms and con-  
14 ditions as in the judgment of the [*granting authority*] **department** may be in the best interest of the  
15 public for the protection of the highway [*or road*] and the traveling public and may include, but need  
16 not be limited to:

17 (a) Provisions for construction of culverts under approaches, requirements as to depth of fills  
18 over culverts and requirements for drainage facilities, curbs, islands and other facilities for traffic  
19 channelization as may be deemed necessary.

20 (b) With respect to private road crossings, additional provisions for the angle of intersection,  
21 crossing at grade or other than grade, sight distances, safety measures including flaggers, crossing  
22 signs and signals, reinforcement for protection of the highway, maintenance of the crossing and for  
23 payment by the applicant of the costs of any of the foregoing.

24 (c) With respect to private road crossings, the [*granting authority*] **department** may also require  
25 the applicant to furnish:

26 (A) Public liability and property damage insurance in a sum fixed by the [*granting authority*]  
27 **department**, which insurance shall also indemnify the [*members,*] officers, employees and agents of  
28 [*such authority*] **the department** from any claim that might arise on account of the granting of the  
29 permit and the crossing of the highway [*or road*] by vehicles operating under the permit; and [*the*  
30 *granting authority may also require the applicant to furnish*]

**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 (B) Indemnity insurance, an indemnity bond or an irrevocable letter of credit issued by an in-  
 2 sured institution as defined in ORS 706.008 in a sum fixed by the *[granting authority]* **department**,  
 3 indemnifying *[such authority]* **the department** for any damage to the highways *[or roads]* that may  
 4 be caused by the use of the crossing.

5 (3) The powers granted by this section and ORS 374.315 may not be exercised so as to deny any  
 6 property adjoining the *[road or]* highway reasonable access. In determining what is reasonable, the  
 7 department *[or county court or board of county commissioners]* shall apply the following criteria:

8 (a) The access must be sufficient to allow the authorized uses for the property identified in the  
 9 acknowledged local comprehensive plan.

10 (b) The type, number, size and location of approaches must be adequate to serve the volume and  
 11 type of traffic reasonably anticipated to enter and exit the property, based on the planned uses for  
 12 the property.

13 (4)(a) As used in this subsection:

14 (A) "Peak hour" means the hour during which the highest volume of traffic enters and exits the  
 15 property during a typical week.

16 (B) "Private approach" means an approach that serves one or more properties and that is not  
 17 a public approach as defined in this subsection.

18 (C) "Public approach" means an existing or planned city street or county road connection that  
 19 provides vehicular access to and from a highway.

20 (D) "Trip" means a one-way vehicular movement that consists of a motor vehicle entering or  
 21 exiting a property.

22 (b) An approach permit is not required for a public approach.

23 (c) A new approach permit for a change of use of an approach is required for a private approach  
 24 if:

25 (A)(i) The number of peak hour trips increases by 50 trips or more from that of the property's  
 26 prior use; or

27 (ii) The number of trips on a typical day increases by 500 trips or more from that of the  
 28 property's prior use; and

29 (B) The increase in subparagraph (A)(i) or (ii) of this paragraph represents a 20 percent or  
 30 greater increase in the number of trips on a typical day and the number of peak hour trips from that  
 31 of the property's prior use.

32 (d) A new approach permit for a change of use of an approach is required for a private approach  
 33 if the daily use of a private approach increases by 10 or more vehicles with a gross vehicle weight  
 34 rating of 26,000 pounds or greater.

35 (5) The department shall establish access management rules, mitigation measures and spacing  
 36 and mobility standards that are less stringent for highway segments where the annual average  
 37 amount of daily traffic is 5,000 motor vehicles or fewer, than for highway segments where the annual  
 38 average amount of daily traffic is greater than 5,000 motor vehicles.

39 (6) The department may not charge any fee for issuance of a permit under this section for con-  
 40 struction of an approach road.

41 **SECTION 2. Section 3 of this 2011 Act is added to and made a part of ORS 374.305 to**  
 42 **374.325.**

43 **SECTION 3. (1) The county court or board of county commissioners shall adopt reason-**  
 44 **able rules and regulations and may issue permits, not inconsistent with law, for the use of**  
 45 **the rights of way of county roads for the purposes described in ORS 374.305.**

1       **(2) Rules and regulations adopted and permits issued under subsection (1) of this section**  
 2 **shall include provisions, terms and conditions that in the judgment of the granting authority**  
 3 **may be in the best interest of the public for the protection of the road and the traveling**  
 4 **public and may include, but need not be limited to:**

5       **(a) Provisions for construction of culverts under approaches, requirements as to depth**  
 6 **of fills over culverts and requirements for drainage facilities, curbs, islands and other facil-**  
 7 **ities for traffic channelization as may be deemed necessary.**

8       **(b) With respect to private road crossings, additional provisions for the angle of inter-**  
 9 **section, crossing at grade or other than grade, sight distances, safety measures including**  
 10 **flaggers, crossing signs and signals, reinforcement for protection of the road, maintenance**  
 11 **of the crossing and for payment by the applicant of the costs of any of the foregoing.**

12       **(c) With respect to private road crossings, the granting authority may also require the**  
 13 **applicant to furnish:**

14       **(A) Public liability and property damage insurance in a sum fixed by the granting au-**  
 15 **thority that indemnifies the members, officers, employees and agents of the granting au-**  
 16 **thority from any claim that might arise on account of the granting of the permit and the**  
 17 **crossing of the road by vehicles operating under the permit; and**

18       **(B) Indemnity insurance, an indemnity bond or an irrevocable letter of credit issued by**  
 19 **an insured institution as defined in ORS 706.008 in a sum fixed by the granting authority,**  
 20 **indemnifying the granting authority for any damage to the roads that may be caused by the**  
 21 **use of the crossing.**

22       **(3) The powers granted by this section and ORS 374.315 may not be exercised so as to**  
 23 **deny any property adjoining the road reasonable access. In determining what is reasonable,**  
 24 **the county court or board of county commissioners shall apply the following criteria:**

25       **(a) The access must be sufficient to allow the authorized uses for the property identified**  
 26 **in the acknowledged local comprehensive plan.**

27       **(b) The type, number, size and location of approaches must be adequate to serve the**  
 28 **volume and type of traffic reasonably anticipated to enter and exit the property, based on**  
 29 **the planned uses for the property.**

30       **SECTION 4.** ORS 374.315 is amended to read:

31       374.315. All construction under the permits issued under ORS 374.310 **and section 3 of this 2011**  
 32 **Act** shall be under the supervision of the granting authority and at the expense of the applicant.  
 33 After completion of the construction of the particular approach road, facility, thing or appurtenance,  
 34 they shall be maintained at the expense of the applicant and in accordance with the rules and reg-  
 35 ulations adopted pursuant to ORS 374.310 **and section 3 of this 2011 Act.**

36       **SECTION 5.** ORS 374.330 is amended to read:

37       374.330. (1) [*Nothing in*] ORS 374.305, 374.310 and 374.325, as such sections were amended by  
 38 chapter 323, Oregon Laws 1957, [*shall be deemed to*] **and section 3 of this 2011 Act do not** affect  
 39 any approach road, structure, pipeline, ditch, cable or wire, or other facility, thing or appurtenance  
 40 lawfully placed or constructed upon the right of way of any highway prior to August 20, 1957.

41       (2)(a) [*Nothing in*] ORS 374.305 [*or*] **and** 374.310, as such sections are amended by chapter 497,  
 42 Oregon Laws 1967, [*shall be deemed to*] **and section 3 of this 2011 Act do not** affect any approach  
 43 road, structure, pipeline, ditch, cable or wire, or other facility, thing or appurtenance lawfully placed  
 44 or constructed upon the right of way of any state highway or county road prior to September 13,  
 45 1967.

1 (b) Except as provided in paragraph (a) of this subsection, private road crossings authorized by  
2 the Public Utility Commission under ORS 374.205 to 374.260 (1965 Replacement Part) are subject to  
3 ORS 374.305 to 374.330 after September 13, 1967.

4 **SECTION 6.** ORS 374.335 is amended to read:

5 374.335. Where any private road crosses or is crossed by a public highway the driving of a motor  
6 vehicle across the public highway or upon the public highway for a distance of not to exceed 1,200  
7 feet in the use of the private road [*shall*] **is** not [*be*] subject to ORS 811.450, 815.155, 815.160, 815.170,  
8 818.020, 818.060, 818.090, 818.110, 818.160, 818.300, 818.320, 818.340, 818.350, 818.400 and ORS chapter  
9 825, provided such vehicle or vehicle use is:

10 (1) Subject to permit issued pursuant to ORS 374.310 **or section 3 of this 2011 Act** or a person  
11 authorized by such permittee; or

12 (2) A farm tractor or implement of husbandry.

13 **SECTION 7.** ORS 374.990 is amended to read:

14 374.990. In addition to the liability for expenses under ORS 374.307 and 374.320, violation of ORS  
15 374.305 or of any rule or regulation adopted under ORS 374.310 **or section 3 of this 2011 Act** is a  
16 misdemeanor.

17 **SECTION 8. This 2011 Act being necessary for the immediate preservation of the public**  
18 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**  
19 **on its passage.**

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