

A-Engrossed
Senate Bill 447

Ordered by the Senate April 5
Including Senate Amendments dated April 5

Sponsored by Senator PROZANSKI (at the request of John Brown, Lane County Legal Aid and Advocacy Center, Oregon Law Center) (Presession 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.

Provides that Department of Transportation may remove personal property deposited, left or displayed under state highway bridge along river within urban growth boundary after posting written notice within 30 feet of where personal property is found.

Requires department to store personal property for 30 days after removal.

Allows department, without written notice, to remove personal property in event of exceptional emergency such as possible site contamination by hazardous materials or when there is immediate danger to human life or safety.

Becomes operative 60 days after effective date of Act.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to the removal of personal property under a state highway within an urban growth
3 boundary on property along a river; creating new provisions; amending ORS 377.650 and 377.655;
4 and declaring an emergency.

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

6 **SECTION 1. Section 2 of this 2011 Act is added to and made a part of ORS 377.605 to**
7 **377.655.**

8 **SECTION 2. (1) If personal property is deposited, left or displayed under a state highway**
9 **bridge, on property along a river and within an urban growth boundary, and the personal**
10 **property is a public nuisance under ORS 377.650, the Department of Transportation may re-**
11 **move, store and dispose of the personal property as provided in this section.**

12 **(2) Prior to the removal of the personal property, the department shall post written no-**
13 **tice in the manner provided in this subsection. The written notice must:**

14 **(a) Be laminated or weather resistant.**

15 **(b) Be posted in a conspicuous location within 30 feet of the property to be removed.**

16 **(c) Include the following dates:**

17 **(A) The date the notice is posted;**

18 **(B) The date by which the property owner must remove the property; and**

19 **(C) The dates within which the department may remove the property pursuant to sub-**
20 **section (3) of this section.**

21 **(d) Be posted no less than five days and no more than 19 days prior to removal. If the**
22 **notice is removed during the posting period, the department may proceed with the removal**
23 **of the personal property but shall replace the notice at the site for the purpose of informing**

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 **property owners about how to claim the property.**

2 **(e) Provide information about the storage of the property, including but not limited to**
3 **how long the department will store the property and a telephone number at which the**
4 **property owner can contact the department to make arrangements to claim the property.**

5 **(f) Be written in English and Spanish.**

6 **(3) No less than five days and no more than 19 days after posting written notice, the**
7 **department may remove the personal property.**

8 **(4) The department shall store the personal property removed under subsection (3) of this**
9 **section:**

10 **(a) In a manner that is reasonably likely to protect the property from harm;**

11 **(b) In a location that is reasonably secure; and**

12 **(c) In a location that is reasonably accessible to the location where the property was**
13 **found.**

14 **(5) After storing the property for 30 days, unless the property is claimed by the property**
15 **owner, the department may sell or otherwise dispose of the personal property.**

16 **(6) The department is not liable for any conversion of personal property removed or**
17 **stored under this section.**

18 **(7) The department may collect the costs of removing, storing, selling or disposing of the**
19 **personal property from the property owner pursuant to this section.**

20 **(8) If the department determines that the personal property creates an exceptional**
21 **emergency, such as possible site contamination by hazardous materials, or that the personal**
22 **property presents an immediate danger to human life or safety, the department may imme-**
23 **diately remove and dispose of the property without notice as described in subsection (2) of**
24 **this section. Personal property that may enter a river as a result of seasonal increases in**
25 **river levels, absent other evidence, does not constitute an exceptional emergency. Personal**
26 **property that may enter a river as a result of unanticipated flooding, absent other evidence,**
27 **does constitute an exceptional emergency.**

28 **(9) A permanent sign posted by the department that announces that personal property**
29 **will be removed does not satisfy the notice requirements established under this section.**

30 **(10) The department may adopt rules for the implementation of this section.**

31 **SECTION 3. ORS 377.650 is amended to read:**

32 **377.650. Any personal property not coming within the definition of junk, except a vehicle as**
33 **defined in ORS 801.590 or a manufactured structure as defined in ORS 446.561, that is deposited, left**
34 **or displayed on a state highway is hereby found and declared to be a public nuisance. **Except as****
35 **provided in section 2 of this 2011 Act, the Director of Transportation may do any of the following**
36 **with respect to personal property declared to be a nuisance by this section:**

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

40 **(2) Ten days after written notice, the director may remove the personal property and store it.**
41 **After 30 days of storage, unless claimed sooner by the owner, the director may sell or otherwise**
42 **dispose of the personal property. Where removal is performed by the director, the director shall not**
43 **be liable for any conversion of personal property and may collect the cost for removal, storage and**
44 **sale or disposal of the personal property from the person owning it.**

45 **(3) If the property is a sign, as defined under ORS 377.710, that is portable or if the property**

1 has been repeatedly deposited, left or displayed in violation of this section, the director may follow
2 the procedures under ORS 377.655. This subsection applies notwithstanding any other provision of
3 this section.

4 **SECTION 4.** ORS 377.655 is amended to read:

5 377.655. (1) The Department **of Transportation** shall adopt rules consistent with this section to
6 provide procedures for the removal and disposition of portable signs or personal property that has
7 been repeatedly left, deposited or displayed in violation of ORS 377.650.

8 (2) Rules adopted by the department under this section may provide for any of the following:

9 (a) A reduction in the times required for notice of violation, opportunity for hearing, opportunity
10 to remove the violation and removal of the violation.

11 (b) Removal of the violation without prior notice if the person committing the violation has been
12 given prior notice of the violation. If removal is provided under this paragraph, opportunity for
13 hearing must be provided by the rules within five days after the removal.

14 (c) Any other rules concerning removal and disposition of such violations that the department
15 determines will reduce the repeating of such violations.

16 **(3) Rules adopted by the department under this section may not alter the provisions es-**
17 **ablished under section 2 of this 2011 Act.**

18 **SECTION 5.** Section 2 of this 2011 Act applies to removal of personal property on or after
19 the operative date set forth in section 6 of this 2011 Act.

20 **SECTION 6.** (1) Sections 1, 2 and 5 of this 2011 Act and the amendments to ORS 377.650
21 and 377.655 by sections 3 and 4 of this 2011 Act become operative 60 days after the effective
22 date of this 2011 Act.

23 **(2) The Department of Transportation may take any action before the operative date**
24 **specified in subsection (1) of this section that is necessary to enable the department to ex-**
25 **ercise, on and after the operative date specified in subsection (1) of this section, all the du-**
26 **ties, functions and powers conferred on the department by sections 1, 2 and 5 of this 2011**
27 **Act and the amendments to ORS 377.650 and 377.655 by sections 3 and 4 of this 2011 Act.**

28 **SECTION 7.** This 2011 Act being necessary for the immediate preservation of the public
29 peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect
30 on its passage.

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