

Senate Bill 933

Sponsored by Senator DINGFELDER

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**.

Abolishes State Marine Board. Transfers duties, functions and powers of board to State Parks and Recreation Department.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to the State Marine Board; creating new provisions; amending ORS 90.425, 90.675, 153.096,
3 153.111, 182.535, 244.050, 285A.615, 319.415, 390.930, 419A.260, 466.915, 466.920, 541.420, 570.855,
4 570.860, 704.010, 704.020, 704.025, 704.035, 704.040, 704.045, 704.050, 704.060, 704.065, 704.070,
5 704.500, 704.510, 704.520, 704.525, 704.900, 776.405, 830.005, 830.015, 830.035, 830.037, 830.055,
6 830.060, 830.082, 830.084, 830.086, 830.092, 830.096, 830.110, 830.115, 830.137, 830.140, 830.150,
7 830.155, 830.160, 830.165, 830.170, 830.172, 830.175, 830.185, 830.190, 830.195, 830.215, 830.220,
8 830.225, 830.230, 830.240, 830.245, 830.250, 830.270, 830.350, 830.365, 830.370, 830.375, 830.390,
9 830.420, 830.435, 830.440, 830.445, 830.450, 830.460, 830.480, 830.485, 830.490, 830.505, 830.535,
10 830.545, 830.550, 830.560, 830.565, 830.570, 830.580, 830.585, 830.605, 830.705, 830.710, 830.715,
11 830.720, 830.725, 830.730, 830.745, 830.750, 830.755, 830.775, 830.785, 830.795, 830.800, 830.810,
12 830.815, 830.820, 830.825, 830.830, 830.850, 830.855, 830.860, 830.865, 830.870, 830.875, 830.880,
13 830.885, 830.895, 830.909, 830.914, 830.922, 830.924, 830.926, 830.955, 830.994, 835.200 and 835.205;
14 repealing ORS 830.105, 830.120, 830.125, 830.130 and 830.135; and declaring an emergency.

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

16 **SECTION 1. (1) The State Marine Board is abolished. On the operative date of this sec-**
17 **tion, the tenure of office of the members of the State Marine Board and of the State Marine**
18 **Director ceases.**

19 **(2) All of the duties, functions and powers of the State Marine Board are imposed upon,**
20 **transferred to and vested in the State Parks and Recreation Department.**

21 **SECTION 2. (1) The State Marine Director shall:**

22 **(a) Deliver to the State Parks and Recreation Department all records and property within**
23 **the jurisdiction of the director that relate to the duties, functions and powers transferred**
24 **by section 1 of this 2011 Act; and**

25 **(b) Transfer to the State Parks and Recreation Department those employees engaged**
26 **primarily in the exercise of the duties, functions and powers transferred by section 1 of this**
27 **2011 Act.**

28 **(2) The State Parks and Recreation Director shall take possession of the records and**
29 **property, and shall take charge of the employees and employ them in the exercise of the**
30 **duties, functions and powers transferred by section 1 of this 2011 Act, without reduction of**
31 **compensation but subject to change or termination of employment or compensation as pro-**

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 vided by law.

2 (3) The Governor shall resolve any dispute between the State Marine Board and the State
3 Parks and Recreation Department relating to transfers of records, property and employees
4 under this section, and the Governor's decision is final.

5 **SECTION 3.** (1) The unexpended balances of amounts authorized to be expended by the
6 State Marine Board for the biennium beginning July 1, 2011, from revenues dedicated, con-
7 tinuously appropriated, appropriated or otherwise made available for the purpose of admin-
8 istering and enforcing the duties, functions and powers transferred by section 1 of this 2011
9 Act are transferred to and are available for expenditure by the State Parks and Recreation
10 Department for the biennium beginning July 1, 2011, for the purpose of administering and
11 enforcing the duties, functions and powers transferred by section 1 of this 2011 Act.

12 (2) The expenditure classifications, if any, established by Acts authorizing or limiting
13 expenditures by the State Marine Board remain applicable to expenditures by the State Parks
14 and Recreation Department under this section.

15 **SECTION 4.** The transfer of duties, functions and powers to the State Parks and Recre-
16 ation Department by section 1 of this 2011 Act does not affect any action, proceeding or
17 prosecution involving or with respect to such duties, functions and powers begun before and
18 pending at the time of the transfer, except that the State Parks and Recreation Department
19 is substituted for the State Marine Board in the action, proceeding or prosecution.

20 **SECTION 5.** (1) Nothing in sections 1 to 8 of this 2011 Act, the amendments to statutes
21 by sections 10 to 133 of this 2011 Act or the repeal of ORS 830.105, 830.120, 830.125, 830.130
22 and 830.135 by section 134 of this 2011 Act relieves a person of a liability, duty or obligation
23 accruing under or with respect to the duties, functions and powers transferred by section 1
24 of this 2011 Act. The State Parks and Recreation Department may undertake the collection
25 or enforcement of any such liability, duty or obligation.

26 (2) The rights and obligations of the State Marine Board legally incurred under contracts,
27 leases and business transactions executed, entered into or begun before the operative date
28 of section 1 of this 2011 Act are transferred to the State Parks and Recreation Department.
29 For the purpose of succession to these rights and obligations, the State Parks and Recreation
30 Department is a continuation of the State Marine Board and not a new authority.

31 **SECTION 6.** Notwithstanding the transfer of duties, functions and powers by section 1
32 of this 2011 Act, the rules of the State Marine Board in effect on the operative date of section
33 1 of this 2011 Act continue in effect until superseded or repealed by rules of the State Parks
34 and Recreation Department. References in rules of the State Marine Board to the State
35 Marine Board or an officer or employee of the State Marine Board are considered to be ref-
36 erences to the State Parks and Recreation Department or an officer or employee of the State
37 Parks and Recreation Department.

38 **SECTION 7.** Whenever, in any uncodified law or resolution of the Legislative Assembly
39 or in any rule, document, record or proceeding authorized by the Legislative Assembly, ref-
40 erence is made to the State Marine Board, or an officer or employee of the State Marine
41 Board, the reference is considered to be a reference to the State Parks and Recreation De-
42 partment or an officer or employee of the State Parks and Recreation Department.

43 **SECTION 8.** The State Parks and Recreation Director may take any action before the
44 operative date of section 1 of this 2011 Act that is necessary to enable the director to exer-
45 cise, on and after the operative date of section 1 of this 2011 Act, the duties, functions and

1 **powers of the director pursuant to section 1 of this 2011 Act.**

2 **SECTION 9. Sections 1 to 7 of this 2011 Act, the amendments to statutes by sections 10**
 3 **to 133 of this 2011 Act and the repeal of ORS 830.105, 830.120, 830.125, 830.130 and 830.135 by**
 4 **section 134 of this 2011 Act become operative on January 1, 2012.**

5 **SECTION 10.** ORS 704.010 is amended to read:

6 704.010. As used in this chapter:

7 [(1) "Board" means the State Marine Board.]

8 [(2)] (1) "Employee" means an individual who, in exchange for compensation or other pecuniary
 9 gain, provides outfitting and guiding services exclusively under the direction, supervision and con-
 10 trol of an outfitter and guide or an ocean guide.

11 [(3)] (2) "Ocean guide" means any individual who carries passengers for hire for outdoor recre-
 12 ational activities only on the waters of the Pacific Ocean over which the State of Oregon has ju-
 13 risdiction and who possesses therefor a valid United States Coast Guard vessel operator license.

14 [(4)] (3) "Outdoor recreational activities" include, but are not limited to, boating, angling,
 15 hunting, jeep touring, backpacking, alpine mountain climbing, camping, trips utilizing pack animals,
 16 dog sled trips, whitewater float trips, rafting trips, drift boat trips, kayak trips, inflatable canoe trips
 17 and canoe trips. The duration of any outdoor recreational activities may be for a few hours or for
 18 several days or weeks.

19 [(5)(a)] (4)(a) "Outfitter and guide" means any person:

20 (A) Who provides, or who offers to provide, for compensation or other pecuniary gain:

21 (i) Outfitting and guiding services in Oregon; or

22 (ii) Outfitting and guiding services and either equipment, supplies, livestock or materials for use
 23 in Oregon; or

24 (B) Who holds one or more federal permits for commercial outfitting and guiding services for
 25 use in any forest or wilderness or on any river in Oregon.

26 (b) "Outfitter and guide" does not include:

27 (A) An ocean guide or an employee of an outfitter and guide or ocean guide; or

28 (B) An individual who, for compensation or other pecuniary gain, provides outfitting and guiding
 29 services for the conduct of outdoor recreational activities exclusively upon property owned or con-
 30 trolled by the individual.

31 [(6)] (5) "Outfitting and guiding services" include, but are not limited to, leading, protecting,
 32 instructing, training, cooking, packing, guiding, transporting, supervising, interpreting or otherwise
 33 assisting any person in the conduct of outdoor recreational activities. The rental of equipment alone
 34 does not constitute outfitting and guiding services.

35 [(7)] (6) Outfitting and guiding services are not offered or provided for compensation or
 36 pecuniary gain if:

37 (a) [No] An individual [receives] **does not receive** any dues, fee, salary, commission, bonus, tip,
 38 compensation, equipment, materials, livestock, supplies, rental payment, amortization payment, de-
 39 preciation payment or other financial gain; and

40 (b) [No] Money or other remuneration is **not** in any manner paid or collected except as a shar-
 41 ing by trip participants of the costs or expenses for the trip.

42 **SECTION 11.** ORS 704.020 is amended to read:

43 704.020. (1) Any person who acts, or who offers to act, as an outfitter and guide must first reg-
 44 ister with the [State Marine Board] **State Parks and Recreation Department**. Each registration
 45 shall be submitted annually on a form provided by the [board] **department** and shall include the

1 following information:

2 (a) The name, residence address, and residence telephone number of the person providing out-
3 fitting and guiding services, and all business names, addresses and telephone numbers under which
4 outfitting and guiding services are provided.

5 (b) If the outfitting and guiding services are to be performed in the business name of an indi-
6 vidual, proof of possession of a current certificate issued to the individual:

7 (A) By the American Red Cross upon completion of its multimedia course; or

8 (B) Upon completion of any equivalent medical or American Red Cross training course approved
9 by the [board] **department**.

10 (c) If the outfitting and guiding services are to be performed in the business name of a person
11 other than an individual, the outfitter and guide must provide the names of all employees, agents
12 and parties in interest who physically provide, or who directly assist in physically providing, out-
13 fitting and guiding services in Oregon, together with the affidavit of the outfitter and guide that
14 each such employee, agent or party in interest possesses:

15 (A) A current certificate issued to the employee, agent or party in interest:

16 (i) By the American Red Cross upon completion of its multimedia course; or

17 (ii) Upon completion of any equivalent medical or American Red Cross training course approved
18 by the [board] **department**.

19 (B) A valid United States Coast Guard vessel operator license if operating a motorboat on
20 navigable waters of the United States.

21 (d) A description of:

22 (A) The outfitting and guiding services, and any equipment, supplies, livestock and materials
23 provided by the outfitter and guide;

24 (B) The geographic area in which the outfitter and guide provides the outfitting and guiding
25 services, and any equipment, supplies, livestock and materials; and

26 (C) The experience of the outfitter and guide in providing the outfitting and guiding services,
27 and equipment, supplies, livestock and materials.

28 (e) Proof that the outfitter and guide has liability insurance covering occurrences by the out-
29 fitter and guide, and the employees of the outfitter and guide, which result in bodily injury or
30 property damage. Such insurance shall be not less than \$300,000 combined single limit per occur-
31 rence general liability coverage.

32 (f) Certification by the outfitter and guide that the outfitter and guide will maintain the insur-
33 ance required by paragraph (e) of this subsection continuously in full force and effect for a period
34 of not less than one year from the date the certificate of registration described in this section is
35 issued by the [board] **department**.

36 (g) The affidavit of the outfitter and guide stating that for a period of not less than 24 months
37 immediately prior to making the registration application the outfitter and guide and each person
38 who provides or assists in directly providing outfitting and guiding services:

39 (A) Have not been convicted of:

40 (i) Any criminal offense or violation under this chapter or ORS chapter 477, 496, 497, 498, 501,
41 506, 508, 509 or 511 or any rule adopted pursuant thereto; or

42 (ii) Any violation of the wildlife laws which occurred while acting as an outfitter and guide and
43 which resulted in court-ordered revocation of the hunting or fishing license of the outfitter and
44 guide;

45 (B) Have not had an outfitting and guiding license, permit or certificate revoked, suspended or

1 canceled by another state or by an agency of the government of the United States;

2 (C) Have not been denied the right to apply for an outfitting and guiding license, permit or
3 certificate by another state or by an agency of the government of the United States; and

4 (D) Have not been convicted of guiding without registration as required by this subsection.

5 (2) In addition to the requirements of subsection (1) of this section, a person who acts or offers
6 to act as an outfitter and guide using boats that are under the direct operation of an outfitter and
7 guide or an employee of an outfitter and guide to carry passengers on the waters of this state shall
8 submit proof:

9 (a) That the outfitter and guide possesses a valid United States Coast Guard vessel operator li-
10 cense if operating a motorboat on navigable waters of the United States; and

11 (b) Of liability insurance.

12 (3)(a) A person who registers as an outfitter and guide and who accepts deposits from clients in
13 excess of \$100 per person shall submit a bond or other financial security in the amount of \$5,000 to
14 the [board] **department** at the time of registration. The bond or other financial security shall be
15 held by the [board] **department** for the benefit of clients of the outfitter and guide who pay a money
16 deposit to the outfitter and guide in anticipation of services to be received. The bond or other fi-
17 nancial security amount shall be released to such client or clients conditioned upon a failure of the
18 outfitter and guide to return the deposit following cancellation of services or other failure to provide
19 agreed upon services.

20 (b) The [board] **department** shall release or retain all or any portion of a bond or other finan-
21 cial security as described in paragraph (a) of this subsection according to the provisions of ORS
22 chapter 183.

23 (4) Each annual registration shall be accompanied by a fee as follows:

24 (a) For resident persons, \$50.

25 (b) For nonresident persons who reside in a state that requires residents of the State of Oregon
26 to pay a license fee, registration fee or other fee or charge in excess of \$50 to act as an outfitter
27 and guide in that state, the same fee or other charge as is charged the residents of the State of
28 Oregon to act as an outfitter and guide in the state where the nonresident applicant resides. If the
29 state in which such a nonresident applicant resides makes distinctions in fees or charges based on
30 the type of outfitter and guide service performed and requires residents of the State of Oregon to
31 pay fees or charges accordingly, the [board] **department** shall make and apply those same dis-
32 tinctions and require the nonresident applicants to pay the corresponding fees or charges.

33 (c) For nonresident persons other than those referred to in paragraph (b) of this subsection, \$50.

34 (5) Upon the submission to the [board] **department** of the appropriate fees prescribed in this
35 section and the registration information required by this section, the [board] **department** shall issue
36 to the applicant a certificate of registration. The [board] **department** shall also issue to each reg-
37 istrant proof of compliance with the requirements of this section.

38 (6) A person who conducts sightseeing flights or other aircraft operations is exempt from the
39 provisions of this section unless the activities conducted by the person are outdoor recreational
40 activities as defined in ORS 704.010.

41 (7) The [board] **department** shall issue an identifying decal to outfitters and guides registering
42 under this section that may be displayed on vehicles, pack equipment or other suitable locations
43 where customers can see the registration decal.

44 (8) A certificate of registration issued to an outfitter and guide under this section expires on
45 December 31 of each calendar year or on such date as may be specified by [board] **department** rule.

1 **SECTION 12.** ORS 704.025 is amended to read:

2 704.025. (1) The [*State Marine Board*] **State Parks and Recreation Department** may adopt
3 rules that exempt persons who provide outfitting and guiding services on the Columbia River from
4 the registration and fee requirements in ORS 704.020 if:

5 (a) The person conducts outfitting and guiding services on the waters of the Columbia River
6 where that river forms the boundary line between the State of Oregon and the State of Washington;

7 (b) The person possesses a valid Washington license, permit or registration that allows the
8 person to provide outfitting and guiding services;

9 (c) The [*board*] **department** determines that the licensing, permitting or registration require-
10 ments of the State of Washington are comparable to those of Oregon; and

11 (d) The State of Washington provides similar reciprocity for holders of valid Oregon outfitter
12 and guide registrations.

13 (2) The purpose of subsection (1) of this section is to avoid the conflict, confusion and difficulty
14 of an attempt to find the exact locations of the state boundary in or on the waters of the Columbia
15 River while providing outfitting and guiding services.

16 (3) The [*board*] **department** may adopt rules that exempt persons who provide outfitting and
17 guiding services on the Snake River from the registration and fee requirements in ORS 704.020 if:

18 (a) The person conducts outfitting and guiding services on the waters of the Snake River where
19 that river forms the boundary line between the State of Oregon and the State of Idaho;

20 (b) The person possesses a valid Idaho license, permit or registration that allows the person to
21 provide outfitting and guiding services;

22 (c) The [*board*] **department** determines that the licensing, permitting or registration require-
23 ments of the State of Idaho are comparable to those of Oregon; and

24 (d) The State of Idaho provides similar reciprocity for holders of valid Oregon outfitter and
25 guide registrations.

26 (4) The purpose of subsection (3) of this section is to avoid the conflict, confusion and difficulty
27 of an attempt to find the exact locations of the state boundary in or on the waters of the Snake
28 River while providing outfitting and guiding services.

29 **SECTION 13.** ORS 704.035 is amended to read:

30 704.035. (1) The [*State Marine Board*] **State Parks and Recreation Department** shall accord
31 opportunity for hearing as provided in ORS chapter 183 when the [*board*] **department** proposes to:

32 (a) Refuse to issue or renew an outfitter and guide registration;

33 (b) Revoke or suspend a registration; or

34 (c) Reprimand an outfitter and guide.

35 (2) Any person aggrieved by a decision of the [*board*] **department** under this chapter is entitled
36 to judicial review of the decision in accordance with the procedure for contested cases provided by
37 ORS chapter 183.

38 **SECTION 14.** ORS 704.040 is amended to read:

39 704.040. (1) The Legislative Assembly finds that violation of fire prevention, wildlife, hunting,
40 angling, trapping or commercial fishing laws is directly related to the fitness required for registra-
41 tion as an outfitter and guide.

42 (2) When any person is convicted of any violation of ORS 704.020 or 704.030 or any rule
43 [*promulgated*] **adopted** pursuant to ORS 704.500, the court having jurisdiction of the offense may
44 order the [*State Marine Board*] **State Parks and Recreation Department** to revoke the certificate
45 of registration issued to that person pursuant to ORS 704.020.

1 (3) When a court orders revocation of a certificate of registration pursuant to this section, the
 2 court shall take up the certificate of registration and forward it with a copy of the revocation order
 3 to the [board] **department**. Upon receipt thereof, the [board] **department** shall cause revocation
 4 of the certificate of registration in accordance with the court order.

5 (4) A person who has had a certificate of registration revoked pursuant to this section is ineli-
 6 gible to register under ORS 704.020 for a period of 24 months from the date the court ordered the
 7 revocation.

8 (5) The [board] **department** may reprimand an outfitter and guide or suspend, revoke or deny
 9 for a period of up to 24 months the registration of an outfitter and guide for any of the following:

10 (a) Any serious or repeated violation of this chapter or ORS chapter 477, 496, 497, 498, 501, 506,
 11 508, 509 or 511 or any rule adopted pursuant thereto.

12 (b) Any serious or repeated violation of the fish and wildlife laws or regulations of the federal
 13 government or of another state for committing or omitting acts that, if committed or omitted in this
 14 state, would be a violation of ethical or professional standards established pursuant to this chapter.
 15 A certified copy of the record of suspension or revocation of the state making such suspension or
 16 revocation is conclusive evidence thereof.

17 (c) Having an outfitter and guide registration, license, permit or certificate suspended, revoked,
 18 canceled or denied by another state or by an agency of the United States for committing or omitting
 19 acts that, if committed or omitted in this state, would be a violation of ethical or professional
 20 standards established pursuant to this chapter. A certified copy of the record of suspension or re-
 21 vocation of the state making such suspension or revocation is conclusive evidence thereof.

22 (d) Having a United States Coast Guard vessel operator license revoked, suspended or canceled
 23 by the United States Coast Guard for committing or omitting acts that if committed or omitted in
 24 this state would be a violation of standards established pursuant to this chapter. A certified copy
 25 of the record of revocation, suspension or cancellation from the United States Coast Guard is con-
 26 clusive evidence thereof.

27 (e) Engaging in fraudulent, untruthful or seriously misleading advertising in the conduct of the
 28 outfitting and guiding services.

29 (6) The [board] **department** shall adopt rules to implement subsection (5) of this section, in-
 30 cluding rules that describe conduct that is a serious or repeated violation of a law, rule or regu-
 31 lation.

32 **SECTION 15.** ORS 704.045 is amended to read:

33 704.045. (1) For the purposes of this section, “fishing derby” or “derby” means a multiday,
 34 multistate angling event held in Oregon as a fund-raiser.

35 (2) An organizer of a fishing derby shall register the time and location of the derby with the
 36 [State Marine Board] **State Parks and Recreation Department** if the organizer intends to use a
 37 guide registered or licensed in a state other than Oregon. Each derby registration shall be accom-
 38 panied by a fee of \$50.

39 (3) The [board] **department** may, by permit, exempt a registered fishing derby from the outfitter
 40 and guide registration requirements under ORS 704.020 upon application to the [board] **department**
 41 by the organizer of the derby. The [board] **department** may place conditions on the exemption, in-
 42 cluding but not limited to the identification of outfitters and guides who are registered or licensed
 43 in a state other than Oregon, the display of guide boat numbers and the display of derby credentials
 44 by participants.

45 (4) A violation of any provision of this section shall result in the revocation of the exemption

1 described in subsection (3) of this section and the denial of a future exemption for one year from the
2 date of violation.

3 **SECTION 16.** ORS 704.050 is amended to read:

4 704.050. (1) If an insurance company cancels or refuses to renew insurance for an outfitter and
5 guide required by ORS 704.020, the insurance company, not less than 30 days prior to the effective
6 date of termination of the coverage, shall notify the [*State Marine Board*] **State Parks and Recre-**
7 **ation Department** in writing of the termination and its effective date.

8 (2) Upon receipt of an insurance coverage termination notice, the [*board*] **department** shall send
9 written notice to the outfitter and guide that on the effective date of the insurance coverage ter-
10 mination, the [*board*] **department** will suspend the certificate of registration of the outfitter and
11 guide unless proof of insurance required by ORS 704.020 is filed with the [*board*] **department** prior
12 to the effective date of the proposed insurance coverage termination.

13 (3) The [*board*] **department** may suspend the certificate of registration issued to an outfitter
14 and guide if the outfitter and guide fails to maintain in full force and effect the insurance required
15 by ORS 704.020. A certificate of registration that has been suspended pursuant to this section may
16 not be reinstated until proof of insurance required by ORS 704.020 has been filed with the [*board*]
17 **department**.

18 **SECTION 17.** ORS 704.060 is amended to read:

19 704.060. (1) The [*State Marine Board*] **State Parks and Recreation Department** shall establish
20 a certification process for outfitters and guides who engage in providing outfitting and guiding ser-
21 vices for the hunting of deer and elk to qualify for participation in the allocation of permits required
22 by ORS 496.151. Certification shall include evaluation of education, training, experience and other
23 matters regarding the qualification of individuals to provide the required services.

24 (2) The [*board*] **department** may charge a fee for certification that is in addition to the fee re-
25 quired by this chapter for registration.

26 (3) Outfitters and guides must meet the certification requirements of this section in the calendar
27 year prior to each deer and elk season in order to participate in the permit allocation referred to
28 in ORS 496.151.

29 **SECTION 18.** ORS 704.065 is amended to read:

30 704.065. (1) A person who acts or offers to act as an outfitter and guide using boats to carry
31 passengers on the waters of this state shall affix to each boat used in providing outfitter and guide
32 services an identifying decal issued by the [*State Marine Board*] **State Parks and Recreation De-**
33 **partment** or other governmental agency, subject to rules of the [*board*] **department**, showing the
34 year of issuance, the passenger-carrying capacity of the boat and such other information as the
35 [*board*] **department** may prescribe.

36 (2) The boat decals for each outfitter and guide who uses a boat to carry passengers on the
37 waters of this state expire on December 31 of each calendar year.

38 **SECTION 19.** ORS 704.070 is amended to read:

39 704.070. (1) A person who acts or offers to act as an outfitter and guide using boats to carry
40 passengers on the waters of this state shall:

41 (a) Equip each nonmotorized boat that is under the direct operation of an outfitter and guide
42 or an employee of an outfitter and guide to carry passengers on waters rated as class III or higher
43 on a commonly accepted scale of river difficulty with a rescue throw bag, complete with a length
44 of artificial fiber rope and a buoyant bag;

45 (b) On any section of waters rated as class III or higher on a commonly accepted scale of river

1 difficulty, require that all persons physically providing outfitting and guiding services and all pas-
 2 sengers wear a properly secured United States Coast Guard approved personal flotation device of
 3 a type prescribed by rules adopted by the [*State Marine Board*] **State Parks and Recreation De-**
 4 **partment**; and

5 (c) If the outfitter and guide operates nonmotorized boats carrying passengers on any section
 6 of waters rated as class III or higher on a commonly accepted scale of river difficulty, require that
 7 all persons physically providing outfitting and guiding services:

8 (A) Prior to providing the services, have completed at least one trip on that section of waters
 9 in a nonmotorized boat; and

10 (B) Have been trained in equipment preparation and boat rigging, understanding and recognizing
 11 river characteristics and hazards, methods of scouting rapids, methods of physically guiding boats
 12 through rapids, proper client communication, how to provide paddling and safety instruction and
 13 methods of river rescue techniques, including emergency procedures and equipment recovery.

14 (2) Subsection (1)(b) of this section does not apply to motorized boats that are inspected by the
 15 United States Coast Guard.

16 **SECTION 20.** ORS 704.500 is amended to read:

17 704.500. In accordance with any applicable provisions of ORS chapter 183, the [*State Marine*
 18 *Board*] **State Parks and Recreation Department** may [*promulgate*] **adopt** rules to carry out the
 19 provisions of this chapter.

20 **SECTION 21.** ORS 704.510 is amended to read:

21 704.510. The Outfitters and Guides Account is established in the General Fund of the State
 22 Treasury. Except as otherwise provided by law, all moneys received by the [*State Marine Board*]
 23 **State Parks and Recreation Department** pursuant to ORS 704.020 shall be paid into the State
 24 Treasury and credited to the account. All moneys in the account are appropriated continuously to
 25 the [*board*] **department** to carry out the provisions of this chapter.

26 **SECTION 22.** ORS 704.520 is amended to read:

27 704.520. The [*State Marine Board*] **State Parks and Recreation Department** will submit an-
 28 nually to the state agency given the responsibility of state tourism promotion a registration list of
 29 outfitters and guides and the following information:

30 (1) The name, business names, addresses and telephone numbers under which outfitting and
 31 guiding services are provided;

32 (2) A description of the outfitting and guiding service;

33 (3) The geographic area in which the outfitting and guiding service is provided; and

34 (4) The experience of the outfitter and guide in providing the outfitting and guiding service.

35 **SECTION 23.** ORS 704.525 is amended to read:

36 704.525. (1) The [*State Marine Board*] **State Parks and Recreation Department** shall appoint
 37 an advisory committee to provide advice to the [*board*] **department** on various matters regarding
 38 the implementation of this chapter. The committee shall be composed of members appointed as fol-
 39 lows:

40 (a) Two members from among those individuals recommended by the Oregon Guides and Pack-
 41 ers.

42 (b) One member from among those individuals recommended by the McKenzie River Guides.

43 (c) One member from among those individuals recommended by the Eastern Oregon Guides.

44 (d) One member from among those individuals recommended by the Rogue River Outfitters.

45 (e) One member from among those individuals recommended by the Deschutes River Public

1 Outfitters.

2 (f) One member from among those individuals recommended by the Rogue River Guides Associ-
3 ation, Inc.

4 (g) One member from among those individuals recommended by the Tillamook Guides Associ-
5 ation.

6 (h) Three public members selected by the [board] **department**.

7 (2) In addition to such other duties as the [board] **department** may prescribe, the advisory
8 committee shall provide advice and recommendations to the [board] **department** regarding:

9 (a) Methods of improving communication between the [board] **department** and the guiding and
10 outfitting industry.

11 (b) The need for competency testing of guides and outfitters.

12 (c) Refinements of the definitions of guides and outfitters.

13 (d) Adequacy of liability insurance coverage.

14 (e) Identifying decals for motorboats used by guides in providing outfitter and guide services.

15 (f) Registration reciprocity for guides conducting outfitting and guiding services on the Snake
16 and Columbia Rivers.

17 **SECTION 24.** ORS 704.900 is amended to read:

18 704.900. (1) In addition to any other penalty provided by law, the [State Marine Board] **State**
19 **Parks and Recreation Department** may impose a civil penalty for failure to comply with ORS
20 704.020, 704.021, 704.065 or 704.070 or for violation of ORS 704.030.

21 (2) Any civil penalty under this section shall be imposed in the manner provided by ORS 183.745.

22 (3) Notwithstanding ORS 183.745, the person to whom the notice is addressed shall have 30 days
23 from the date of service of the notice in which to make written application for a hearing before the
24 [board] **department**.

25 (4) The [board] **department** shall adopt rules implementing these provisions, including a sched-
26 ule of civil penalties. The civil penalty for each violation shall not exceed \$500.

27 (5) A civil penalty imposed under this section may be remitted or reduced upon such terms and
28 conditions as the [board] **department** considers proper and consistent with the public health and
29 safety.

30 (6)(a) In imposing a penalty pursuant to the schedule adopted pursuant to this section, the
31 [board] **department** shall consider the following factors:

32 (A) Any prior violations of ORS 704.020, 704.021, 704.030, 704.065 or 704.070.

33 (B) The immediacy and extent to which the violation threatens the public health or safety.

34 (b) The penalty imposed under this section may be remitted or mitigated upon such terms and
35 conditions as the [board] **department** determines to be proper and consistent with the public bene-
36 fit. Upon the request of the person incurring the penalty, the [board] **department** shall consider
37 evidence of the economic and financial conditions of the person in determining whether a penalty
38 shall be remitted or mitigated.

39 (7) All penalties recovered under this section shall be paid into the State Treasury and credited
40 to the Outfitters and Guides Account.

41 **SECTION 25.** ORS 776.405 is amended to read:

42 776.405. (1)(a) Except as set forth in paragraph (b) of this subsection, [no person shall] **a person**
43 **may not** pilot any vessel upon any of the pilotage grounds established under ORS 776.025 or 776.115
44 without being a licensee under this chapter or a trainee under the onboard supervision of a licensee
45 under this chapter.

(b) Paragraph (a) of this subsection does not apply to:

(A) The master of a vessel under fishery, recreational or coastwise indorsement provided under 46 U.S.C. chapter 121;

(B) A vessel registered with the [*State Marine Board*] **State Parks and Recreation Department** or a similar licensing agency of another state; or

(C) The master of a foreign registered fishing or recreational vessel, exempted by the Oregon Board of Maritime Pilots, of not more than 100 feet in length or 250 gross tons international.

(2) A licensee under this chapter is at all times the servant of the vessel being piloted and its owners and operators.

SECTION 26. ORS 830.005 is amended to read:

830.005. As used in this chapter, unless the context requires otherwise:

[(1) "*Board*" means the *State Marine Board*.]

[(2)] (1) "Boat" means every description of watercraft, including a seaplane on the water and not in flight, used or capable of being used as a means of transportation on the water, but does not include boathouses, floating homes, air mattresses, beach and water toys or single inner tubes.

[(3)] (2) "Boating offense" means violation of any provision of law that is made a crime or violation under the provisions of this chapter.

[(4)] (3) "In flight" means from the moment a seaplane starts its takeoff run until the end of a normal power-off landing run.

[(5)] (4) "Length" means the length of a boat measured from end to end over the deck excluding sheer.

[(6)] (5) "Motorboat" means any boat propelled in whole or in part by machinery, including boats temporarily equipped with detachable motors.

[(7)] (6) "Navigable waters of the United States" means those waters of the United States, including the territorial seas adjacent thereto, the general character of which is navigable, and that, either by themselves or by uniting with other waters, form a continuous waterway on which boats or vessels may navigate or travel between two or more states, or to and from foreign nations.

[(8)] (7) "Operate" means to navigate or otherwise use a boat.

[(9)] (8) "Operator of a boat livery" means any person who is engaged wholly or in part in the business of chartering or renting boats to other persons.

[(10)] (9) "Passenger" means every person on board a boat who is not the master, operator, crew member or other person engaged in any capacity in the business of the boat.

[(11)] (10) "Peace officer" includes a member of the Oregon State Police, a sheriff or deputy sheriff and a city police officer.

[(12)] (11) "State waters" means those waters entirely within the confines of this state that have not been declared navigable waters of the United States.

[(13)] (12) "Waters of this state" means all waters within the territorial limits of this state, the marginal sea adjacent to this state and the high seas when navigated as part of a journey or ride to or from the shore of this state.

SECTION 27. ORS 830.015 is amended to read:

830.015. (1) ORS 830.005, 830.015 to 830.050, 830.175, 830.210 to 830.420 and 830.475 to 830.490 apply to all boats operated in the waters of this state.

(2) Notwithstanding subsection (1) of this section, ORS 830.005, 830.015 to 830.050, 830.175, 830.210 to 830.420 and 830.475 to 830.490 do not apply to a boat when application of the statutes would be inconsistent with federal law or regulations or to a boat that is:

- 1 (a) A foreign boat operated temporarily in the waters of this state.
- 2 (b) A boat owned and operated by the United States or by an entity of the United States.
- 3 (c) A ship's lifeboat used solely for lifesaving purposes.
- 4 (d) A boat belonging to a class of boats that has been exempted from the provisions of ORS
- 5 830.705, 830.710, 830.770, 830.780, 830.785, 830.795 to 830.805 and 830.830 to 830.870 by the [*State*
- 6 *Marine Board*] **State Parks and Recreation Department** as provided in ORS 830.110.

7 (3) Notwithstanding an exemption provided to a class of boats in subsection (2) of this section,
 8 a boat that would otherwise be exempt from regulation because the boat is of a class specified in
 9 subsection (2) of this section is not exempt if the boat is a:

- 10 (a) Passenger vessel of less than 100 gross tons;
- 11 (b) Commercial vessel that is not required to be inspected under federal law; or
- 12 (c) Publicly owned recreational vessel.

13 **SECTION 28.** ORS 830.035 is amended to read:

14 830.035. (1) The sheriff of each county and all other peace officers shall be responsible for the
 15 enforcement of this chapter and any regulations made by the [*State Marine Board*] **State Parks and**
 16 **Recreation Department** pursuant thereto. In the exercise of this responsibility, a peace officer may
 17 stop any boat and direct it to a suitable pier or anchorage for boarding.

18 (2) [*No*] **A** person, while operating a boat on any waters of this state, [*shall*] **may not** knowingly
 19 flee or attempt to elude any law enforcement officer after having received a signal from a law
 20 enforcement officer to bring the boat to a stop.

21 **SECTION 29.** ORS 830.037 is amended to read:

22 830.037. (1) Any law enforcement agency within the State of Oregon that receives a report of a
 23 previously unreported stolen boat shall notify the [*State Marine Board*] **State Parks and Recre-**
 24 **ation Department** within 72 hours after receiving the report. The report shall include all infor-
 25 mation concerning the theft and the boat involved.

26 (2) Any law enforcement agency within the State of Oregon that recovers a boat that has been
 27 previously reported as stolen shall notify the [*board*] **department** of the recovery within 72 hours
 28 after the recovery.

29 (3) When the [*board*] **department** receives a report of the theft of a boat under subsection (1)
 30 of this section, the [*board*] **department** shall place an appropriate notice of the theft in an elec-
 31 tronic file system that identifies the boat during the processing of any new certificate of number or
 32 title. If a boat reported as stolen is identified during such processing, the [*board*] **department** shall
 33 discontinue processing and notify the law enforcement agency that initiated the theft report. The
 34 [*board*] **department** may not issue a new certificate of number or title unless the status of the boat
 35 as a stolen boat is cleared by the originating law enforcement agency.

36 (4) Any boat reported as stolen to the [*board*] **department** shall remain on the records of the
 37 [*board*] **department** as stolen until the originating law enforcement agency clears the record.

38 (5) The [*board*] **department** shall prepare a report listing stolen and recovered boats as dis-
 39 closed by the reports submitted to the [*board*] **department** by law enforcement agencies, and shall
 40 distribute the report on a regular basis.

41 (6) When the [*board*] **department** is notified that a previously listed stolen boat has been re-
 42 covered, the [*board*] **department** shall immediately record the recovery in the [*board's*]
 43 **department's** registration records.

44 **SECTION 30.** ORS 830.055 is amended to read:

45 830.055. (1) The [*State Marine Board*] **State Parks and Recreation Department** shall admin-

1 ister a program designed to remove litter from and to beautify the state's rivers. The program shall
2 include public informational activities, but shall be directed primarily toward encouraging and fa-
3 cilitating involvement of volunteer groups in litter cleanup work, assigning each group to a specific
4 river or stream segment. The program shall be called the Oregon Adopt-a-River Program.

5 (2) Private landowners with rivers running through or adjacent to their property are vital to the
6 success of the Oregon Adopt-a-River Program. The [*State Marine Board*] **department** shall ensure
7 that participants in the program comply with requirements to obtain permission from landowners for
8 river access across private property.

9 (3) Program funding is an authorized use of the Boating Safety, Law Enforcement and Facility
10 Account under ORS 830.140.

11 (4) The [*State Marine Board*] **department** may adopt any rules necessary for implementation of
12 the Oregon Adopt-a-River Program.

13 (5) An agreement entered into between the [*State Marine Board*] **department** and a volunteer
14 group under subsection (1) of this section shall include but need not be limited to:

15 (a) Identification of the designated river or stream segment. The volunteer group may request
16 a specific segment of the river or stream it wishes to adopt, but the assignment shall be at the dis-
17 cretion of the [*State Marine Board*] **department**. In assigning sections of a river, the [*board*] **de-**
18 **partment** shall coordinate and cooperate with affected federal, state and local management agencies
19 and private landowners.

20 (b) Specification of the duties of the volunteer group. The group shall remove litter along the
21 designated river or stream segment at least once each year.

22 (c) Specification of the responsibilities of the volunteer group. The group shall agree to abide
23 by all rules related to the program that are adopted by the [*State Marine Board*] **department**.

24 (d) Duration of the agreement. The volunteer group shall contract to care for the designated
25 river or stream segment for at least two years.

26 (6) The [*State Marine Board*] **department** shall create a recognition program to acknowledge
27 the efforts of volunteer groups, agencies and businesses that participate in the Oregon Adopt-a-River
28 Program.

29 (7) The [*State Marine Board*] **department** shall provide trash bags, safety information and as-
30 sistance to the participating volunteer groups.

31 (8) The [*State Marine Board*] **department** shall be responsible for facilitating the removal of
32 large or heavy items from a river or stream segment if such items are found by a volunteer group.

33 (9) The [*State Marine Board shall*] **department may** not instruct a volunteer group or any
34 member thereof participating in the Oregon Adopt-a-River Program in the measurement of water
35 quality, encourage any participant to measure water quality or include the measuring of water
36 quality in the duties of any participant.

37 (10) The [*State Marine Board shall*] **department may** not instruct a volunteer group or any
38 member thereof participating in the Oregon Adopt-a-River Program in the locating or monitoring of
39 point or nonpoint pollution sources, encourage any participant to locate or monitor point or non-
40 point pollution sources or include the locating or monitoring of point or nonpoint pollution sources
41 in the duties of any participant.

42 **SECTION 31.** ORS 830.060 is amended to read:

43 830.060. If any provision of ORS 830.060 to 830.145, 830.700 to 830.715, 830.725, 830.730, 830.770,
44 830.780, 830.785, 830.795 to 830.820 and 830.830 to 830.870 conflicts with federal requirements so that
45 the system of identifying numbers for boats devised by the [*State Marine Board*] **State Parks and**

1 **Recreation Department** is not approved by the secretary of the department of the federal govern-
2 ment under which the United States Coast Guard is operating, that provision of ORS 830.060 to
3 830.145, 830.700 to 830.715, 830.725, 830.730, 830.770, 830.780, 830.785, 830.795 to 830.820 and 830.830
4 to 830.870 is inoperative to the extent that it so conflicts, but such conflict shall not affect the re-
5 mainder of ORS 830.060 to 830.145, 830.700 to 830.715, 830.725, 830.730, 830.770, 830.780, 830.785,
6 830.795 to 830.820 and 830.830 to 830.870.

7 **SECTION 32.** ORS 830.082 is amended to read:

8 830.082. The [*State Marine Board*] **State Parks and Recreation Department** shall establish
9 and implement a program to provide mandatory boating safety education.

10 **SECTION 33.** ORS 830.084 is amended to read:

11 830.084. In establishing the mandatory boating safety education program pursuant to ORS
12 830.082, the [*State Marine Board*] **State Parks and Recreation Department** shall:

13 (1) Set a minimum standard of boating safety education competency. The standard shall be con-
14 sistent with the applicable standard established by the National Association of State Boating Law
15 Administrators. The [*board*] **department** may update the minimum standard of competency as nec-
16 essary.

17 (2) Create a boating safety course of instruction and examination designed to educate and test
18 for the minimum standard of safety established pursuant to subsection (1) of this section.

19 (3) Create an equivalency exam that may substitute for taking the boating safety course.

20 (4) Incorporate volunteer boating safety education programs to the maximum extent possible.

21 (5) Allow use of commercially provided boating safety courses, provided they meet the standard
22 adopted by the [*board*] **department**.

23 (6) Accept proof of prior completion of any approved boating safety course as meeting the re-
24 quirement for a boating safety course.

25 (7) Establish a fee for the boating safety certificate issued under ORS 830.086 that may not ex-
26 ceed \$10.

27 (8) Establish a temporary boating safety certificate that is valid for 60 days and issued in con-
28 junction with a temporary certificate of number for newly acquired boats.

29 (9) Promote the fact that insurance discounts of 10 percent to 15 percent are widely available
30 for taking a boating safety course that meets the minimum standard established pursuant to sub-
31 section (1) of this section.

32 **SECTION 34.** ORS 830.086 is amended to read:

33 830.086. A person may obtain a boating safety certificate if the person:

34 (1) Is at least 12 years of age;

35 (2) Passes the boating safety course and examination, or the equivalency exam, as described in
36 ORS 830.084, or submits proof to the satisfaction of the [*State Marine Board*] **State Parks and**
37 **Recreation Department** that the person has taken a course that is substantively equivalent to the
38 course described in ORS 830.084; and

39 (3) Pays the fee required by the [*board*] **department**.

40 **SECTION 35.** ORS 830.092 is amended to read:

41 830.092. A boating safety certificate is not required if a person:

42 (1) Is at least 16 years of age and rents a motorboat with an engine greater than 10 horsepower
43 and completes a required dockside safety checklist before operating the boat;

44 (2) Possesses a current commercial fishing license as required by ORS 508.235;

45 (3) Possesses a valid United States Coast Guard commercial motorboat operator's license;

1 (4) Is not a resident of this state and does not operate a boat with an engine greater than 10
2 horsepower in Oregon waters for more than 60 consecutive days;

3 (5) Is not a resident of this state, holds a current out-of-state boating safety certificate and has
4 the out-of-state certificate in the person's possession;

5 (6) Holds a temporary certificate as described under ORS 830.084; or

6 (7) Is not [yet] required to have a certificate under [*the phase-in program developed by the State*
7 *Marine Board pursuant to section 9, chapter 716, Oregon Laws 1999*] **ORS 830.094**.

8 **SECTION 36.** ORS 830.096 is amended to read:

9 830.096. In any proceeding for a violation of ORS 830.088, 830.090, 830.092 or 830.094, the court
10 shall conditionally suspend all or part of the fine to be imposed on the defendant if the defendant
11 appears personally and agrees to complete, at the defendant's own expense, a boating safety course
12 approved by the [*State Marine Board*] **State Parks and Recreation Department** under ORS 830.084
13 within the time limits imposed by the court.

14 **SECTION 37.** ORS 830.110 is amended to read:

15 830.110. In addition to the powers and duties otherwise provided in this chapter, the [*State Ma-*
16 *rine Board*] **State Parks and Recreation Department** shall have the power and duty to:

17 (1) Make all rules necessary to carry out the provisions of this chapter. The rules shall be made
18 in accordance with ORS chapter 183.

19 (2) Devise a system of identifying numbers for boats, floating homes and boathouses. If an
20 agency of the federal government has an overall system of identification numbering for boats within
21 the United States, the system devised by the [*board*] **department** shall conform with the federal
22 system.

23 (3) Cooperate with state and federal agencies to promote uniformity of the laws relating to
24 boating and their enforcement.

25 (4) Make contracts necessary to carry out the provisions of ORS 830.060 to 830.145, 830.700 to
26 830.715, 830.725, 830.730, 830.770, 830.780, 830.785, 830.795 to 830.820 and 830.830 to 830.870.

27 (5) Advise and assist county sheriffs and other peace officers in the enforcement of laws relating
28 to boating.

29 (6) Study, plan and recommend the development of boating facilities throughout the state which
30 will promote the safety and pleasure of the public through boating.

31 (7) Publicize the advantage of safe boating.

32 (8) Accept gifts and grants of property and money to be used to further the purposes of this
33 chapter.

34 (9) Exempt from any provisions of this chapter any class of boats if it determines that the safety
35 of persons and property will not be materially promoted by the applicability of those provisions to
36 the class of boats. The [*board*] **department** may not exempt from numbering any class of boats un-
37 less:

38 (a) The [*board*] **department** determines that the numbering will not materially aid in their
39 identification; and

40 (b) The secretary of the department of the federal government under which the United States
41 Coast Guard is operating has exempted from numbering the same boats or classes of boats.

42 (10) Appoint and require the bonding of agents to issue a temporary permit to operate a boat.
43 In addition to the prescribed fees, the agents may charge the following for their services in issuing
44 the temporary permit:

45 (a) \$2.50 per transaction for calendar years 2008, 2009 and 2010;

1 (b) \$3.75 per transaction for calendar years 2011, 2012 and 2013; and

2 (c) Beginning in 2014, and every three years thereafter, the [board] **department** shall issue an
3 order revising the fee specified in paragraph (b) of this subsection on January 1, based on changes
4 in the Portland-Salem, OR-WA, Consumer Price Index for All Urban Consumers for All Items, as
5 published by the Bureau of Labor Statistics of the United States Department of Labor. The [board]
6 **State Parks and Recreation Department** shall round the amount of the fee to the nearest half-
7 dollar. The revised fee takes effect on January 1 and applies for the following three years.

8 (11) Publish and distribute to the interested public the boating laws of this state and resumes
9 or explanations of those laws.

10 (12) Publish and distribute forms for any application required under this chapter and require the
11 use of such forms.

12 (13) Make rules for the uniform navigational marking of the waters of this state. Such rules
13 [shall] **may** not conflict with markings prescribed by the United States Coast Guard. No political
14 subdivision or person shall mark the waters of this state in any manner in conflict with the
15 markings prescribed by the [board] **department**.

16 (14) Make rules regarding marine toilets and their use consistent with the prevention and con-
17 trol of pollution of the waters of this state and not in conflict with the rules of the Oregon Health
18 Authority or the Environmental Quality Commission.

19 (15) Institute proceedings to enjoin unlawful obstructions injuring free navigation on the waters
20 of this state.

21 (16) Make rules regulating water ski course markers, ski jumps and other special use devices
22 placed in the waters of this state. Such rules may regulate the installation and use of the devices
23 and may require a permit.

24 (17) Adopt rules necessary to carry out and enforce the provisions of ORS 830.950 and 830.955.
25 The rules shall include but need not be limited to:

26 (a) The kinds of protective covering or physical barriers that are acceptable to be used between
27 a submersible polystyrene device and the water.

28 (b) Guidelines for the use of submersible polystyrene devices for the repair or maintenance of
29 existing docks or floats.

30 (18) Adopt rules providing for establishment of a Safe Boating Education Course to be made
31 available to courts and law enforcement agencies within this state for use as a sentencing option
32 for those individuals convicted of boating offenses. The [board] **department** shall specify the content
33 of the Safe Boating Education Course and shall prescribe procedures for making the course avail-
34 able to local courts and law enforcement agencies, including procedures for promptly notifying such
35 courts whether individuals required to enroll in the course have taken and successfully passed the
36 course. Such rules may provide for administration of the course through nonprofit organizations,
37 such as the United States Coast Guard Auxiliary, United States Power Squadrons or similar groups.

38 (19) For purposes of ORS 830.175, 830.180, 830.185 and 830.195, in cooperation with the State
39 Aviation Board, regulate boats that are seaplanes as provided in ORS 830.605 and 835.200.

40 **SECTION 38.** ORS 830.115 is amended to read:

41 830.115. The [State Marine Board] **State Parks and Recreation Department** shall at least once
42 every three years conduct a survey of owners and others to determine, by county, the kinds of
43 boating activity on the various waters of the state during different periods of the year. Boating ac-
44 tivity in a county shall be determined by taking into consideration the number and kinds of boats
45 engaging in different boating activities in the county and the number of days during the last fiscal

1 year that such activities were carried on in the county. The [board] **department** may also consider
2 other factors relating to the enforcement of boating safety and traffic regulations provided by this
3 chapter and the regulations adopted pursuant thereto.

4 **SECTION 39.** ORS 830.137 is amended to read:

5 830.137. In addition to the powers and duties otherwise provided in this chapter, the [*State Ma-*
6 *rine Board*] **State Parks and Recreation Department** shall have the power and duty to make
7 grants from funds received through the Clean Vessel Act of 1992, 16 U.S.C. 777c and g (1994), P.
8 L. No. 102-587, to eligible public agencies as provided in ORS 830.150. In addition, these funds may
9 be distributed to eligible private marina or moorage facilities that are open and available for public
10 use for the construction and operation of boat waste collection facilities. The [board] **department**
11 shall give first priority for distributing funds from the Clean Vessel Act to public boating facilities.
12 Distribution of funds shall be made on the basis of need as that need appears to the [board] **de-**
13 **partment.**

14 **SECTION 40.** ORS 830.140 is amended to read:

15 830.140. (1) On or before the 10th day of each month, the [*State Marine Board*] **State Parks and**
16 **Recreation Department** shall pay into the State Treasury, except as provided in ORS 830.926, all
17 moneys received by the [board] **department** during the preceding calendar month. The State
18 Treasurer shall credit the moneys to the Boating Safety, Law Enforcement and Facility Account,
19 which account hereby is created, separate and distinct from the General Fund. The moneys in the
20 account hereby are continuously appropriated to the [board] **department** for the purpose of paying
21 the expense of administering and enforcing the provisions of this chapter. The [board] **department**
22 shall keep a record of all moneys received and expended.

23 (2) After paying the necessary expenses incurred by the [board] **department** in administering
24 this chapter, the funds available in the account shall be distributed, in the amounts required, for the
25 purpose of enforcing the provisions of this chapter and the regulations adopted pursuant thereto.
26 The [board] **department** shall determine the amount required for enforcement in each county, con-
27 sidering the survey conducted under ORS 830.115. The funds available shall be apportioned ac-
28 cording to the amounts required and distributed, for enforcement in each county where there is a
29 need, under a contract entered into with a city, with the Department of State Police or with the
30 sheriff of the county. A contract with a city or a sheriff shall be entered into only with the approval
31 of the governing body of the city or county. The [board] **State Parks and Recreation Department**
32 shall determine the intervals at which the moneys shall be distributed.

33 (3) The governing body of any county having within its boundaries a city providing recreational
34 boating facilities including launching ramps, may contract with the city for the purpose of enforcing
35 the provisions of this chapter and the rules and regulations made pursuant thereto.

36 (4) If the city enters into a contract with the [board] **department** or with a county, the county
37 is relieved of its enforcement responsibilities within the city as agreed to by the county and the city
38 or by the [board] **department** and the city.

39 **SECTION 41.** ORS 830.150 is amended to read:

40 830.150. (1) Amounts remaining in the Boating Safety, Law Enforcement and Facility Account
41 in excess of funds obligated under ORS 830.140 (2) shall be distributed, upon application, to the
42 state, a city, county, water improvement district, park and recreation district or a port. Distribution
43 shall be made on the basis of need for a facility as that need appears to the [*State Marine Board*]
44 **State Parks and Recreation Department.**

45 (2)(a) In distributing funds under subsection (1) of this section, the [board] **department** shall

1 give first priority to applications for facilities designed to control water pollution or otherwise en-
 2 hance water quality, including but not limited to pumping stations for recreational boat holding
 3 tanks, and to those other facilities for which there appears the greatest public need.

4 (b) Subject to paragraph (a) of this subsection, the [board] **department** may distribute funds for:

5 (A) Construction and maintenance of boating facilities, for the acquisition of property therefor,
 6 and other related facilities such as parking, potable water, sanitation and other facilities for the
 7 convenience of the public using the boating facilities; and

8 (B) Removal of derelict structures floating upon and abandoned dock or boat mooring facilities
 9 situated in, upon or over the waters of this state if such structures or facilities constitute a hazard
 10 to boating upon such waters.

11 (3) Prior to making any distribution of funds under this section, the [board] **department** shall
 12 hold a public hearing in the area where a facility is to be constructed or land acquired if in the
 13 judgment of the [board] **department**, use of the facility would stimulate significant change in the
 14 character of the recreational use of the waters.

15 (4) The [board shall make no distribution of] **department may not distribute** funds under this
 16 section for construction or acquisition if in the judgment of the [board] **department** the applicant
 17 has not included in the construction or acquisition plans adequate provision for protecting the
 18 quality of the waters affected by the plans. The [board's] **department's** denial of any application
 19 under this subsection must include specific notice to the applicant of the point or points of the plan
 20 that are found by the [board] **department** to be inadequate.

21 **SECTION 42.** ORS 830.155 is amended to read:

22 830.155. A revolving fund not to exceed \$2,500 may be established within the [State Marine
 23 Board] **State Parks and Recreation Department** from funds available under section 1 (1), chapter
 24 84, Oregon Laws 1991. This revolving fund may be used for payment of state claims appropriately
 25 authorized by the [State Marine Board] **department** not to exceed \$50 per transaction. The fund
 26 shall be replenished periodically through charges made for such purchases to appropriate accounts
 27 or funds.

28 **SECTION 43.** ORS 830.160 is amended to read:

29 830.160. In addition to any other authority to promote safe boating pursuant to this chapter, the
 30 [State Marine Board] **State Parks and Recreation Department** may cause the removal of any ob-
 31 struction consisting of logs, rocks or other debris resulting from natural causes from the waters of
 32 this state if the [board] **department** finds the obstruction to be an extraordinary hazard to boating
 33 safety. The [board] **department** may pay the cost of such removal from amounts reserved therefor
 34 in the account created by ORS 830.140.

35 **SECTION 44.** ORS 830.165 is amended to read:

36 830.165. (1) In order to protect the public interest in the prudent and equitable use of the waters
 37 of this state and enhance the enjoyment of pleasure boating and other recreational water sports
 38 thereon, the [State Marine Board] **State Parks and Recreation Department** shall establish and
 39 pursue comprehensive educational programs designed to advance boating safety.

40 (2) The [board] **department** shall put into effect a program to train youthful boat operators. For
 41 the purpose of giving the courses of instruction, the **State Parks and Recreation** Director may
 42 designate as the agent of the director any person the director deems qualified to act in such ca-
 43 pacity. [No charge shall] **A charge may not** be made for any instruction given.

44 **SECTION 45.** ORS 830.170 is amended to read:

45 830.170. The [State Marine Board] **State Parks and Recreation Department** is authorized to

1 enter into bilateral, reciprocal agreements with other jurisdictions to provide mutual assistance in
 2 the disposition of boating offenses committed by residents of one jurisdiction while in the other ju-
 3 risdiction.

4 **SECTION 46.** ORS 830.172 is amended to read:

5 830.172. (1) In addition to those powers and duties set forth in ORS 830.110, the [*State Marine*
 6 *Board*] **State Parks and Recreation Department** shall review county boat use permit programs,
 7 adopted by county ordinance, for approval or denial.

8 (2) The [*board*] **department** shall review county boat use permit programs under the following
 9 standards:

10 (a) Funds shall be dedicated to county boating programs for boating safety, marine law
 11 enforcement or boating facilities;

12 (b) The program applies only to counties bordering a state that allows imposition of a boat use
 13 permit fee;

14 (c) The program meets standards adopted by rule by the [*board*] **department** pertaining to:

15 (A) Use of funds;

16 (B) Amount of fee;

17 (C) Administration; and

18 (D) Enforcement; and

19 (d) Boats with a current, valid certificate of number issued by the [*board*] **department** under
 20 ORS 830.795 and manually propelled vessels are exempt from county boat use permits.

21 **SECTION 47.** ORS 830.175 is amended to read:

22 830.175. (1) The [*State Marine Board*] **State Parks and Recreation Department**, upon consid-
 23 eration of the size of a body of water and traffic conditions, may make special regulations consistent
 24 with the safety and the property rights of the public or when traffic conditions become such as to
 25 create excessive congestion, relating to the operation of boats in any waters within the territorial
 26 limits of any political subdivision of this state. The regulations may include, but need not be limited
 27 to, the establishment of designated speeds, the prohibition of the use of motorboats and the desig-
 28 nation of areas and times for testing racing motorboats.

29 (2) The governing body of a political subdivision of this state may apply to the [*board*] **depart-**
 30 **ment** for special regulations relating to the designation of moorage areas on lakes or reservoirs
 31 which are under the jurisdiction of a public agency, or to the operation of boats on the waters
 32 within the territorial limits of the political subdivision. Within a reasonable time, the [*board*] **de-**
 33 **partment** shall act upon the application in the manner provided in subsection (1) of this section.
 34 When special regulations have been established within a political subdivision in accordance with
 35 this subsection, the governing body shall establish and maintain the navigational markers prescribed
 36 by the [*board*] **department**.

37 (3) The [*board*] **department** may make special regulations relating to the operation of boats,
 38 including the establishment of designated speeds and prohibition of the use of motorboats for the
 39 protection of game and game fish at the request of the State Fish and Wildlife Commission, or for
 40 carrying out the provisions of the federal Wild and Scenic Rivers Act, Public Law 90-542, and the
 41 Oregon Scenic Waterways Act, ORS 390.805 to 390.925. Action necessary to implement this section,
 42 including but not limited to the operation and manner of operation of boats, shall be by a permit
 43 system initiated by the [*board*] **department**.

44 (4) The [*board*] **department** may designate certain rivers or sections of rivers as hazardous. In
 45 making such designations, the [*board*] **department** may consider recommendations of guide associ-

ations incorporated in this state.

(5) Regulations regarding operation of boats pursuant to this section shall be adopted in accordance with the provisions of ORS chapter 183.

(6) Any speeds in excess of the speeds designated by the [board] department, as provided in this section, shall be prima facie evidence of the violation of ORS 830.315.

SECTION 48. ORS 830.185 is amended to read:

830.185. (1) [No person shall] **A person may not** operate a boat with an outboard or inboard motor at a speed in excess of 10 miles per hour during those hours of the day and on those days of the year that it is lawful to fish, on East Lake, Paulina Lake and Elk Lake in Deschutes County; Magone Lake in Grant County; Timothy Lake in Clackamas County; and Davis Lake in Deschutes and Klamath Counties.

(2) [No person shall] **A person may not** operate a boat with an outboard or inboard motor at a speed in excess of 10 miles per hour on the following named waters of this state located in the counties named:

<u>Counties</u>	<u>Lakes and Reservoirs</u>
Clackamas	On that portion of the waters of the reservoir known as North Fork Reservoir which lies upstream from a line drawn across the reservoir at right angles to the thread of the stream at a point 2.3 miles upstream from the North Fork Dam measured along the thread of the stream
Deschutes	Hosmer, Lava, Little Cultus, Little Lava, Sparks Lakes and Crane Prairie Reservoir
Jefferson	On that portion of the waters behind Pelton Dam, known as Lake Simtustus, which lies upstream from a line drawn across the lake at right angles to the thread of the stream at a point 0.85 miles upstream from the Pelton Dam measured along the thread of the stream
Klamath	That portion of Upper Klamath Lake that lies west of a line beginning at a point on the north shore of Pelican Bay one-quarter mile east of Crystal Creek and extending due south to the opposite shore of the lake; any stream, creek or canal that leads into the portion of Upper Klamath Lake described above including Crystal Creek, Recreation Creek and Four-Mile Creek, also known as Harriman Creek
Lane	Waldo Lake
Linn	Smith and Trailbridge Reservoirs
Wasco	Clear Lake

(3)(a) The [State Marine Board] **State Parks and Recreation Department** shall establish an appropriate decibel rating and speed restriction on Diamond Lake in Douglas County to allow recreational boating that is not limited to fishing. Recreational boating does not include operating a jet ski or similar personal watercraft. The speed established by the [board] department:

(A) May not exceed 45 miles per hour between the hours of 9 a.m. and 6 p.m.;

(B) May not exceed 10 miles per hour between the hours of 6 p.m. and 9 a.m.; and

(C) Shall be restricted to 10 miles per hour at all times in any area within 200 yards of any boat ramp, boat dock, swimming area, inlet or outlet of the lake, designated campground or summer home.

1 (b) The [board] **department** shall reduce the speed restriction on Diamond Lake to 10 miles per
 2 hour at all hours when the State Fish and Wildlife Director determines that the health of Diamond
 3 Lake is restored and the lake can be restocked for fishing.

4 **SECTION 49.** ORS 830.190 is amended to read:

5 830.190. The governing body of a political subdivision of this state may apply to the [*State Ma-*
 6 *rine Board*] **State Parks and Recreation Department** for a temporary suspension of a speed re-
 7 striction on a specific body of water within the territorial limits of the political subdivision and,
 8 after a hearing upon notice, the [board] **department** may suspend the restriction, such suspension
 9 not to exceed 72 hours.

10 **SECTION 50.** ORS 830.195 is amended to read:

11 830.195. In addition to any other authority to regulate boating activities pursuant to this chap-
 12 ter, the [*State Marine Board*] **State Parks and Recreation Department** may regulate and restrict
 13 boating activities to protect traditional boating uses and to prevent boating user conflicts.

14 **SECTION 51.** ORS 830.215 is amended to read:

15 830.215. (1) All boats must carry at least one United States Coast Guard approved personal
 16 flotation device in good and serviceable condition for each person on board. Each device must be
 17 of an appropriate size for the person for whom it is intended and must be readily accessible when-
 18 ever the boat is in use. As used in this subsection, a personal flotation device is not “readily ac-
 19 cessible” if it is stowed in a locked compartment or locker or is otherwise not immediately,
 20 physically available to persons on board the boat in case of an emergency.

21 (2) The [*State Marine Board*] **State Parks and Recreation Department** by rule shall classify
 22 types of personal flotation devices and specify which types are approved for various classes of ves-
 23 sels. The rules must be consistent with, but may not exceed those regulations promulgated by the
 24 United States Coast Guard.

25 (3) Notwithstanding the classification by the [*State Marine Board*] **department** of the types of
 26 personal flotation devices approved for various classes of vessels pursuant to subsection (2) of this
 27 section, a person operating a boat on any section of waters rated class III or higher on a commonly
 28 accepted scale of river difficulty, and all passengers in the boat, shall wear a properly secured per-
 29 sonal flotation device. The personal flotation device must be of a type prescribed by rules adopted
 30 by the [*State Marine Board*] **department**.

31 **SECTION 52.** ORS 830.220 is amended to read:

32 830.220. (1) Every motorboat shall carry on board, fully charged and in good condition fire
 33 extinguishers of a type required by the [board] **State Parks and Recreation Department** by rule.

34 (2) The [*State Marine Board*] **department** shall make rules for fire extinguishers in accordance
 35 with ORS chapter 183.

36 (3) When the [board] **department** makes rules under this section it may consider fire extin-
 37 guisher requirements and standards adopted by the United States Coast Guard.

38 **SECTION 53.** ORS 830.225 is amended to read:

39 830.225. On all waters of the state, every boat shall carry and exhibit the lights required by
 40 rules [*promulgated*] **adopted** by the [*State Marine Board*] **State Parks and Recreation**
 41 **Department**. Such rules shall be designed to prevent collisions and generally promote boating
 42 safety. In [*promulgating*] **adopting** such rules the [board] **department** may consider lighting re-
 43 quirements and standards adopted by the United States Coast Guard and by federal statutes.

44 **SECTION 54.** ORS 830.230 is amended to read:

45 830.230. (1) Each boat shall carry on board, in good and serviceable condition, sound signaling

1 devices of a type required by the [board] **State Parks and Recreation Department** by rule.

2 (2) The [board] **department** shall make rules for sound signaling devices in accordance with
3 ORS chapter 183.

4 (3) When the [board] **department** makes rules under this section, it may consider sound sig-
5 naling requirements and standards adopted by the United States Coast Guard.

6 **SECTION 55.** ORS 830.240 is amended to read:

7 830.240. (1) Motorboats using fuel having a flashpoint of 110 degrees Fahrenheit or less shall
8 have ventilating systems that meet standards provided by the [State Marine Board] **State Parks and**
9 **Recreation Department** for the purpose of properly and efficiently ventilating the bilges of every
10 engine and fuel compartment in order to remove any inflammable or explosive gases.

11 (2) The [board] **department** may, in accordance with ORS chapter 183, adopt regulations pro-
12 viding standards for ventilating systems. Motorboats so constructed as to have the greater portion
13 of the bilges under the engines and fuel tanks open and exposed to the natural atmosphere at all
14 times are not required to be fitted with ventilators.

15 **SECTION 56.** ORS 830.245 is amended to read:

16 830.245. [No person shall] **A person may not** operate a boat in the waters of this state [which]
17 **that** rise and fall with the ebb and flow of the tide unless the boat is equipped with safety devices
18 of a type prescribed by regulations of the [State Marine Board] **State Parks and Recreation De-**
19 **partment** made in accordance with ORS chapter 183.

20 **SECTION 57.** ORS 830.250 is amended to read:

21 830.250. The [State Marine Board] **State Parks and Recreation Department** may require by
22 rule that all boats or any class of boats shall carry or install additional equipment [which] **that** in
23 the opinion of the [board] **department** is necessary for the safety of persons and property. The rules
24 shall be made in accordance with ORS chapter 183 and, to the extent considered by the [board]
25 **department** to be consistent with safety of persons and property, shall equal or exceed the regu-
26 lations promulgated by the United States Coast Guard.

27 **SECTION 58.** ORS 830.270 is amended to read:

28 830.270. (1) Before hearing any charge for violation of ORS 830.260, a court shall notify the
29 [State Marine Board] **State Parks and Recreation Department** of the name of any person cited
30 for violation of ORS 830.260 and the number of any boat used in the alleged violation.

31 (2) Upon receipt of a notification under subsection (1) of this section, the [board] **department**
32 shall:

33 (a) Notify the court of whether the person cited is the owner of the boat; and

34 (b) If the person is not the owner of the boat, notify the boat owner that the certificate of
35 number of the boat will be suspended under ORS 830.815 if the person cited for operating the boat
36 is convicted and there is no evidence to satisfy the court that the boat has been brought into com-
37 pliance with standards for sound levels established by the [board] **department** for purposes of ORS
38 830.815.

39 (3) At a hearing for violation of ORS 830.260, the court shall allow the owner of the boat used
40 in the violation to show that the boat has been brought into compliance with standards for sound
41 levels established by the [board] **department**.

42 (4) If a court finds that a person has operated a boat in violation of ORS 830.260, the court shall
43 provide the [board] **department** with information necessary to suspend the certificate of number for
44 the boat under ORS 830.815 unless evidence has been presented to the satisfaction of the court that
45 the boat has been brought into compliance with the standards for sound levels established by the

1 [board] **department**.

2 **SECTION 59.** ORS 830.350 is amended to read:

3 830.350. (1) [No person shall] **A person may not** operate a racing motorboat, for the purpose
4 of trying or testing the boat or equipment on the boat, in any areas **where** or during the time when
5 one of the following conditions exist:

6 (a) Where boats are anchored.

7 (b) Where people are swimming.

8 (c) Near populated beaches.

9 (d) Among water-skiers.

10 (e) Among boats underway.

11 (f) Where persons or property will be endangered because the area is otherwise congested.

12 (g) Where persons or property will be disturbed or endangered because the waters on which the
13 boat is operated are within a residential area.

14 (2) Subject to subsection (1) of this section, motorboats may be operated on public waters with-
15 out effective muffling devices as required by ORS 830.260, for the purpose of trying or testing the
16 equipment on the boat, in areas and during times designated by the [State Marine Board] **State**
17 **Parks and Recreation Department** by regulations adopted under ORS 830.175.

18 (3) Within any county in which areas and times for trying or testing boats or the equipment on
19 boats have been designated by the [board] **department** under ORS 830.175, if a person wishes to
20 operate a boat for such a purpose on public waters within the county, outside the designated testing
21 area, the person shall apply to the sheriff of the county for a permit to do so. The permit, which
22 may be issued upon application, shall be conditioned upon compliance with subsection (1) of this
23 section, and shall designate the areas where and the times when the boat may be operated for such
24 purpose. [Provided, however,] The sheriff, in issuing such a permit, may waive subsection (1)(g) of
25 this section if the boat being tested is muffled in accordance with ORS 830.260.

26 **SECTION 60.** ORS 830.365 is amended to read:

27 830.365. (1) [No person shall] **A person may not** ride or manipulate any water skis, surfboard
28 or similar device in a reckless or negligent manner so as to endanger any person or property.

29 (2) [No person shall] **A person may not** operate a boat for the purpose of towing a person on
30 water skis, surfboard or similar device, and [no person shall] **a person may not** engage in
31 waterskiing, surfboarding or similar activity at any time after sunset and before sunrise. This sub-
32 section does not apply to a person [while] engaged in a professional exhibition or to a person en-
33 gaged in an activity authorized under ORS 830.375.

34 (3) [No person shall] **A person may not** operate or manipulate any boat, tow rope or other de-
35 vice by which the direction or location of a person on water skis, surfboard or similar device may
36 be affected or controlled in a reckless or negligent manner so as to cause the person on water skis,
37 surfboard or similar device to collide with or strike against any person or object.

38 (4) [No person shall] **A person may not** ride or manipulate any water skis, surfboard or similar
39 device while under the influence of an intoxicating liquor or a controlled substance.

40 (5) [No person shall] **A person may not** operate a boat on any waters of this state, towing a
41 person on water skis, aqua-plane, surfboard, saucer[,] or similar device, unless there is in the boat
42 another person, in addition to the operator, who is in a position to continuously observe the person
43 being towed.

44 (6) Notwithstanding subsection (5) of this section, persons operating a boat to tow a water-skier
45 in an authorized competitive marine event, or engaged in practicing for a competitive water ski

1 event on a water ski course authorized by the [*State Marine Board*] **State Parks and Recreation**
 2 **Department**, may use either a curved, rearview mirror or another person, in addition to the oper-
 3 ator, to continuously observe the person being towed.

4 (7) [*No person shall*] **A person may not** operate any boat used for towing water skis, surfboards
 5 or similar devices on the waters of this state unless the boat is equipped with and displays a
 6 warning flag as follows:

7 (a) The warning flag, also known as the “skier down” flag, shall be international orange or red
 8 in color and shall be at least 12 inches in height and 12 inches in width.

9 (b) When any person being towed by the boat becomes disengaged from the towline and is down
 10 in the water, a person in the boat shall immediately display the warning flag aloft, visible from all
 11 sides, as an indicator to other boats in the area that a person is down in the water. As long as the
 12 downed person is in the water, the flag shall remain displayed to prevent danger to that person and
 13 hazards to passing boats.

14 (c) The warning flag described in this section shall be displayed only under the conditions set
 15 forth in paragraph (b) of this subsection or when other imminent danger exists.

16 **SECTION 61.** ORS 830.370 is amended to read:

17 830.370. (1) [*No person shall*] **A person may not** moor a boat to any of the buoys or beacons
 18 placed in any waters of this state by the authority of the United States, an agency of the United
 19 States or by the [*State Marine Board*] **State Parks and Recreation Department** nor in any manner
 20 hang on with a boat to such buoy or beacon.

21 (2) [*No person shall*] **A person may not** deface, remove or destroy any buoy, beacon or other
 22 navigational marker maintained in the waters of this state.

23 (3) This section does not apply to any action prohibited by ORS 783.610 regarding a buoy or
 24 beacon established or erected by the United States Coast Guard.

25 **SECTION 62.** ORS 830.375 is amended to read:

26 830.375. (1) At least 30 days before holding a regatta, boat race, marine parade, tournament or
 27 exhibition on the waters of this state, the person who will be in charge of the event shall apply to
 28 the [*State Marine Board*] **State Parks and Recreation Department** for authorization to hold the
 29 event.

30 (2) The [*board*] **department** shall provide by regulation for the manner of applying for and
 31 granting authorization and shall approve all applications for authorization [*which*] **that** are con-
 32 sistent with the safety and pleasure of the public.

33 (3) The [*board*] **department** may make rules and regulations restricting the operation of boats
 34 necessary to [*insure*] **ensure** safety two hours prior to, during and two hours after the approved
 35 event.

36 (4) [*No person shall*] **A person may not** hold a regatta, boat race, marine parade, tournament,
 37 trial for speed records or exhibition on the waters of this state, unless the authorization of the
 38 [*board*] **department** has been secured, except that the [*board's*] **department's** authorization is not
 39 required if authorization or the equivalent has been secured from an appropriate agency of the
 40 United States.

41 (5) An authorization by the [*board*] **department** does not exempt a person holding an event from
 42 compliance with applicable federal law.

43 **SECTION 63.** ORS 830.390 is amended to read:

44 830.390. (1) In addition to any other authority to regulate boats and equipment, the [*State Marine*
 45 *Board*] **State Parks and Recreation Department** shall require that any vessel engaged in the

1 Klamath Lake plankton fishery and any associated watercraft meet minimum equipment and safety
2 requirements prescribed by the [board] **department**.

3 (2) In adopting rules necessary to implement subsection (1) of this section, the [board] **depart-**
4 **ment**:

5 (a) Shall consult with vessel owners; and

6 (b) May not exceed regulations promulgated by the United States Coast Guard for equivalent
7 classes of vessels and associated watercraft.

8 **SECTION 64.** ORS 830.420 is amended to read:

9 830.420. (1) The [State Marine Board] **State Parks and Recreation Department** shall provide
10 by rule minimum equipment requirements for boats rented or chartered to the public. The rules shall
11 be made in accordance with ORS chapter 183.

12 (2) Designated representatives of the [board] **department** may annually inspect all rental or
13 charter boats to check for the equipment required by the [board] **department**. Any inspections
14 conducted shall be coordinated with other state and federal agencies to minimize duplication of
15 vessel inspections and boardings.

16 (3) After a hearing upon 10 days' notice to the owner of the boat, the [board] **department** may
17 cancel or revoke the certificate of number for any boat rented or chartered to the public if it does
18 not equal or exceed the minimum equipment requirements provided by the [board] **department**.

19 **SECTION 65.** ORS 830.435 is amended to read:

20 830.435. (1) Except as otherwise provided in this section, a person may not engage in the busi-
21 ness of carrying passengers for hire for angling, sightseeing or other recreational purposes in ocean
22 waters within the jurisdiction of this state without first obtaining an ocean charter vessel license
23 from the [State Marine Board] **State Parks and Recreation Department**.

24 (2) The [board] **department** may adopt rules allowing a person who holds a license or regis-
25 tration issued by the State of Washington to engage in the business of carrying passengers for hire
26 for angling, sightseeing or other recreational purposes to conduct those activities if:

27 (a) The person operates a vessel that leaves from and returns to a port in the State of
28 Washington;

29 (b) The person operates the vessel within the jurisdiction of this state in the Pacific Ocean north
30 of Cape Falcon, or in the Columbia River; and

31 (c) The State of Washington adopts provisions that allow engaging in the business of carrying
32 passengers for hire for angling, sightseeing or other recreational purposes with a valid Oregon
33 ocean charter vessel license within the jurisdiction of the State of Washington in the Pacific Ocean
34 south of Leadbetter Point, or in the Columbia River.

35 (3) The license required by subsection (1) of this section is in lieu of registration required by
36 ORS chapter 704 to carry passengers for hire for angling, sightseeing or other recreational purposes
37 in any navigable waters of this state. Payment of the license fee referred to in ORS 830.440 (2)(b)
38 is in lieu of any other fee or tax for the possession, use or operation of the vessel.

39 **SECTION 66.** ORS 830.440 is amended to read:

40 830.440. (1) An individual who desires to obtain an ocean charter vessel license shall make
41 written application therefor to the [State Marine Board] **State Parks and Recreation**
42 **Department**. The application shall include such information regarding the vessel and copies of
43 such documents and licenses regarding operation of the vessel as the [board] **department** may re-
44 quire. The application shall be accompanied by proof that the applicant has protection against li-
45 ability imposed by law covering occurrences by the operator of the ocean charter vessel, and the

1 employees of the operator, for the payment of damages for bodily injuries, including death resulting
2 therefrom, in the minimum amount of \$300,000 per occurrence, at any time while engaged in carry-
3 ing passengers for hire. The applicant shall certify that the vessel complies with the equipment re-
4 quirements established by the [board] **department** under ORS 830.450.

5 (2) The annual fee for an ocean charter vessel license is:

6 (a) For vessels owned by residents of this state if the vessel has license, title and number issued
7 pursuant to ORS chapter 830, \$50.

8 (b) For vessels owned by residents of this state if the vessel has a valid marine document issued
9 by an agency of the federal government, \$100.

10 (c) For vessels owned by persons who reside in a state that requires Oregon residents to pay a
11 license fee to operate an ocean charter vessel in the waters of that state, such fee as is charged
12 Oregon residents to operate an ocean charter vessel in the state where the nonresident applicant
13 resides.

14 (d) For all vessels owned by nonresidents other than those described in paragraph (c) of this
15 subsection, \$100.

16 (3)(a) A person who applies for a license to operate an ocean charter vessel and who accepts
17 deposits from clients in excess of \$100 per person or whose agent accepts such deposits, shall submit
18 a bond or other financial security in the amount of \$5,000 to the [board] **department** at the time
19 of application. The bond or other financial security shall be held by the [board] **department** for the
20 benefit of clients of the licensee who pay a money deposit to the licensee or the licensee's agent in
21 anticipation of services to be received. The bond or other financial security amount shall be released
22 to such client or clients conditioned upon a failure of the licensee or the licensee's agent to return
23 the deposit following cancellation of services or other failure to provide agreed upon services.

24 (b) The [board] **department** shall release or retain all or any portion of a bond or other finan-
25 cial security as described in paragraph (a) of this subsection according to the provisions of ORS
26 chapter 183.

27 (4) A license issued pursuant to this section is transferable to a replacement vessel of the li-
28 cense holder and is transferable to the purchaser of the vessel when the vessel is sold.

29 (5) For the purposes of reciprocity under ORS 704.025 and 830.435, the [board] **department** may
30 adopt rules to waive the annual fees required under subsection (2)(a) and (b) of this section for a
31 person who possesses a current Oregon outfitter and guide registration under ORS chapter 704 and
32 operates in the waters of the Columbia River downstream from the Lewis and Clark Bridge. The
33 [board] **department** may specify conditions for the waiver of fees under this subsection.

34 **SECTION 67.** ORS 830.445 is amended to read:

35 830.445. (1) The liability protection required by ORS 830.440 shall be provided in one of the
36 following ways:

37 (a) By a policy or policies of bodily injury liability insurance described as protection and
38 indemnity insurance in the Standard American Institute Hull Form, issued by an insurer authorized
39 by ORS chapter 731 to transact such insurance in this state.

40 (b) By a bond or bonds, issued by a surety company or companies, authorized by ORS chapter
41 731 to transact such business in this state.

42 (c) By evidence of insurance issued on behalf of Lloyds of London by an insurance broker au-
43 thorized by ORS chapter 731 to transact such business in this state.

44 (d) By any other evidence of liability protection approved by the [State Marine Board] **State**
45 **Parks and Recreation Department.**

1 (2) If the provider of liability protection cancels or refuses to renew the protection, the com-
 2 pany, not less than 30 days prior to the effective date of termination of the protection, shall notify
 3 the [board] **department** in writing of the termination and its effective date. Upon receipt of a li-
 4 ability protection termination notice, the [board] **department** shall send written notice to the ocean
 5 charter vessel operator that the [board] **department** will suspend that person's ocean charter vessel
 6 license unless proof of liability protection required by ORS 830.440 is filed with the [board] **de-**
 7 **partment** prior to the effective date of the proposed liability protection termination. The [board]
 8 **department** may suspend an ocean charter vessel license if the licensee fails to maintain in full
 9 force and effect the liability protection required by ORS 830.440. A license that has been suspended
 10 pursuant to this section may not be reinstated until proof of liability protection required by ORS
 11 830.440 has been filed with the [board] **department**.

12 **SECTION 68.** ORS 830.450 is amended to read:

13 830.450. [No person shall] **A person may not** operate a vessel to engage in activities for which
 14 an ocean charter vessel license is required unless all equipment required pursuant to this section
 15 is on board the vessel and in proper working order. In establishing equipment requirements, the
 16 [State Marine Board] **State Parks and Recreation Department** shall consider recommendations
 17 from charter boat associations. The [board] **department** shall consider requiring the following types
 18 of equipment:

19 (1) If the vessel operates not more than 20 miles from the nearest port:

20 (a) First-aid kit.

21 (b) Automatic bilge warning light or bell for high water condition, audible or visible from each
 22 steering station.

23 (c) Depth finder.

24 (d) Life jackets.

25 (e) Light and smoke flares.

26 (f) VHF radio with frequencies appropriate to contact the United States Coast Guard.

27 (g) Power-operated bilge pumps.

28 (h) Running lights.

29 (i) Anchor and anchor chain or line.

30 (j) Displayed ocean class United States Coast Guard operator's license.

31 (k) Engine room space ventilation system and blower system.

32 (L) Fire extinguishers.

33 (m) Magnetic compass.

34 (n) Bailing buckets or hand-operated bilge pump.

35 (o) Loran C or radar navigational equipment.

36 (p) Emergency Position Indicator Radio Beacon device (EPIRB).

37 (q) Life ring.

38 (2) If the vessel operates more than 20 miles from the nearest port, in addition to the equipment
 39 specified in subsection (1) of this section, the [board] **department** shall consider requiring the fol-
 40 lowing types of equipment:

41 (a) Single sideband radio.

42 (b) Life raft or unsinkable shore boat.

43 (c) Navigational charts for the area in which the vessel is operating.

44 (d) Water lights.

45 **SECTION 69.** ORS 830.460 is amended to read:

1 830.460. (1) *[No person shall]* **A person may not** make any false statement of material fact in
2 making application for an ocean charter vessel license pursuant to ORS 830.440.

3 (2) *[No person shall]* **A person may not** operate a vessel to engage in activities for which an
4 ocean charter vessel license is required, if it is determined upon inspection by the *[State Marine*
5 *Board]* **State Parks and Recreation Department** or its representative, or upon citation by a peace
6 officer, that the vessel fails to comply with the equipment requirements of ORS 830.450, until all
7 equipment requirements are met.

8 (3) *[No person shall]* **A person may not** operate a vessel to engage in activities for which an
9 ocean charter vessel license is required without having in effect the protection against liability re-
10 ferred to in ORS 830.440 and 830.445.

11 **SECTION 70.** ORS 830.480 is amended to read:

12 830.480. (1) The operator of any boat involved in an accident resulting in injury or death to any
13 person or damage to property in excess of the dollar amount established by rule of the *[State Marine*
14 *Board]* **State Parks and Recreation Department** shall make a report of the accident to the
15 *[board]* **department** in such form and manner as the *[board]* **department** by rule may prescribe.

16 (2) Whenever a report is insufficient in the opinion of the *[board]* **department**, it may require
17 the operator to file a supplemental report and may also require a witness to the accident to render
18 a report to the *[board]* **department**.

19 (3) Whenever the operator of a boat is physically incapable of making a required accident report
20 and there was another occupant in the boat at the time of the accident capable of making a report,
21 the occupant shall make or cause the report to be made.

22 **SECTION 71.** ORS 830.485 is amended to read:

23 830.485. (1) The *[State Marine Board]* **State Parks and Recreation Department** shall prepare
24 and make available to the public forms for accident reports required in ORS 830.480. The report
25 shall call for sufficiently detailed information to disclose the cause of an accident, conditions then
26 existing, and the persons and vehicles involved. Every accident report shall be made on a form ap-
27 proved by the *[board]* **department**.

28 (2) The State Health Officer shall on or before the 15th day of each month forward to the
29 *[board]* **department** a copy of the death certificate covering the death, resulting from a boat acci-
30 dent, of any persons within the jurisdiction of the State Health Officer during the preceding calen-
31 dar month.

32 **SECTION 72.** ORS 830.490 is amended to read:

33 830.490. (1) All accident reports made to the *[State Marine Board]* **State Parks and Recreation**
34 **Department** shall be without prejudice to the individual reporting and shall be for the confidential
35 use of administrative and enforcement agencies only.

36 (2) The *[board]* **department** upon written request[,] shall, if available, disclose the following in-
37 formation to any party involved in the accident, or, in the event of the party's death, to any member
38 of the party's family, or to the party's personal representatives:

39 (a) The identity of the owner, operator, occupants and the identifying number of a boat involved
40 in an accident;

41 (b) The names of any companies insuring the owner or operator; and

42 (c) The identity of any witnesses to the accident.

43 (3) *[No such report shall]* **A report may not** be used as evidence in any trial, civil or criminal,
44 arising out of the accident. The *[board]* **department** shall furnish, upon demand of any person who
45 has or claims to have made such a report or upon demand of any court, a certificate showing that

1 a specified accident report has or has not been made to the [board] **department**, solely to prove a
 2 compliance or a failure to comply with the requirement that such a report be made to the [board]
 3 **department**.

4 (4) The [board] **department** shall compile and may analyze all accident reports and shall publish
 5 annually, or at more frequent intervals, statistical information relating to boat accidents.

6 (5) In response to any request duly made by an authorized official or agency of the United
 7 States, or in compliance with any federal requirement, the [board] **department** shall transmit any
 8 information compiled or otherwise available to the [board] **department** from the accident reports
 9 required by ORS 830.480 and 830.485.

10 **SECTION 73.** ORS 830.505 is amended to read:

11 830.505. (1) Any person who operates a boat on any waters of this state [shall be] **is** deemed to
 12 have given consent to submit to chemical tests of the person's breath for the purpose of determining
 13 the alcoholic content of the person's blood if the person is arrested for operating a boat while under
 14 the influence of intoxicants while in violation of ORS 830.325 or of a municipal ordinance. Tests
 15 shall be administered upon the request of a peace officer having reasonable grounds to believe that
 16 the person arrested was operating a boat while under the influence of intoxicants while in violation
 17 of ORS 830.325 or of a municipal ordinance. Before the test is administered, the person requested
 18 to take the test shall be informed of rights and consequences as described in ORS 830.545.

19 (2) [No] **A** chemical test of the person's breath [shall] **may not** be given under subsection (1)
 20 of this section[,] to a person under arrest for operating a boat while under the influence of
 21 intoxicants in violation of ORS 830.325 or of a municipal ordinance[,] if the person refuses the re-
 22 quest of a peace officer to submit to the chemical test after the person has been informed of rights
 23 and consequences as described in ORS 830.545.

24 (3) Within the time required by the [State Marine Board] **State Parks and Recreation De-**
 25 **partment** by rule, the arresting officer shall report the following information to the [board] **de-**
 26 **partment**:

27 (a) Whether the person refused to submit to a test.

28 (b) Whether the person was informed of rights and consequences as described under ORS
 29 830.545.

30 (4) A report required by this section may be made on one or more forms provided by the
 31 [board] **department**.

32 **SECTION 74.** ORS 830.535 is amended to read:

33 830.535. (1) A chemical analysis is valid under ORS 830.505, 830.520 or 830.525 if:

34 (a) It is an analysis of a person's blood for alcohol content and is performed in:

35 (A) A laboratory certified or accredited under 42 C.F.R. part 493 and approved for toxicology
 36 testing;

37 (B) A laboratory licensed under ORS 438.110 and approved for toxicology testing; or

38 (C) A forensic laboratory established by the Department of State Police under ORS 181.080 that
 39 is accredited by a national forensic accrediting organization.

40 (b) It is an analysis of a person's breath and is performed by an individual possessing a valid
 41 permit to perform chemical analyses issued by the Department of State Police under ORS 813.160
 42 or by the [State Marine Board] **State Parks and Recreation Department** under the provisions of
 43 this section. Chemical analyses must be performed according to methods approved by the Depart-
 44 ment of State Police under ORS 813.160 or approved by the [board] **State Parks and Recreation**
 45 **Department** under this section. For purposes of this section, the [board] **State Parks and Recre-**

1 **ation Department** shall do all of the following:

2 (A) Approve methods of performing chemical analyses of a person's breath.

3 (B) Prepare manuals and conduct courses throughout the state for the training of peace officers
4 in chemical analyses of a person's breath, which courses shall include, but are not limited to, ap-
5 proved methods of chemical analyses, use of approved equipment and interpretation of test results
6 together with a written examination on these subjects.

7 (C) Test and certify the accuracy of equipment to be used by peace officers for chemical ana-
8 lyses of a person's breath before regular use of the equipment and periodically thereafter at inter-
9 vals of not more than 90 days. Tests and certification required by this subparagraph must be
10 conducted by trained technicians.

11 (D) Ascertain the qualifications and competence of individuals to conduct chemical analyses in
12 accordance with one or more methods approved by the [board] **State Parks and Recreation De-**
13 **partment** or by the Department of State Police under ORS 813.160.

14 (E) Issue permits to individuals according to their qualifications. Permits may be issued to peace
15 officers only upon satisfactory completion of the prescribed training course and written examination.
16 A permit must state the methods and equipment that the peace officer is qualified to use. Permits
17 are subject to termination or revocation at the discretion of the [board] **State Parks and Recre-**
18 **ation Department**.

19 (2) In conducting a chemical test of the blood, only a duly licensed physician or a person acting
20 under the direction or control of a duly licensed physician may withdraw blood or pierce human
21 tissue. A licensed physician, or a qualified person acting under the direction or control of a duly
22 licensed physician, is not civilly liable for withdrawing any bodily substance, in a medically ac-
23 ceptable manner, at the request of a peace officer.

24 (3) An individual who performs a chemical analysis of breath or blood under ORS 830.505,
25 830.520 or 830.525 shall prepare and sign a written report of the findings of the test. A test admin-
26 istered at the request of a peace officer must include the identification of the peace officer upon
27 whose request the test was administered.

28 (4) Any individual having custody of the report mentioned in subsection (3) of this section shall,
29 upon request of the person tested, furnish a copy of the report to that person or that person's at-
30 torney.

31 (5) The expense of conducting a chemical test as provided by ORS 830.505 or 830.520 must be
32 paid by the governmental units on whose equipment the test is conducted or by the governmental
33 units upon whose request the test was administered if no governmental unit's equipment is used to
34 conduct the test.

35 **SECTION 75.** ORS 830.545 is amended to read:

36 830.545. This section establishes the requirements for information about rights and consequences
37 for purposes of ORS 830.505. The following apply to the information about rights and consequences:

38 (1) The information about rights and consequences shall be substantially in the form prepared
39 by the [*State Marine Board*] **State Parks and Recreation Department**. The [board] **department**
40 may establish any form it determines appropriate and convenient.

41 (2) The information about rights and consequences shall be substantially as follows:

42 (a) Operating a boat under the influence of intoxicants is a crime in Oregon and the person is
43 subject to criminal penalties if the test shows that the person is under the influence of intoxicants.
44 If the person refuses the test or fails, evidence of the refusal or failure may also be offered against
45 the person.

1 (b) The person fails the test if the test shows the person is under the influence of intoxicants
2 under Oregon law.

3 (c) If the person is convicted of operating a boat while under the influence of intoxicants, the
4 person may not operate a boat for a period of time following the conviction.

5 (d) If the person is convicted of operating a boat while under the influence of intoxicants, the
6 person is not eligible to apply for any certificate of title, registration or numbering and all certifi-
7 cates of title, registration and numbering necessary to lawfully operate a boat on Oregon waters
8 shall be canceled for at least a year. The ineligibility to apply for certificates or the cancellation
9 of the certificates shall be substantially longer if the person refuses the test.

10 (e) After taking the test, the person shall have a reasonable opportunity, upon request, for an
11 additional chemical test for blood alcohol content to be performed at the person's own expense by
12 a qualified individual of the person's choosing.

13 (3) *[Nothing in this section prohibits the board]* **This section does not prohibit the department**
14 **from providing additional information concerning rights and consequences that the [board] depart-**
15 **ment considers appropriate or convenient.**

16 **SECTION 76.** ORS 830.550 is amended to read:

17 830.550. (1) Any person who operates a boat on any waters of this state *[shall be]* **is** deemed to
18 have given consent to submit to field sobriety tests upon the request of a peace officer for the pur-
19 pose of determining if the person is under the influence of intoxicants if the peace officer reasonably
20 suspects that the person has committed the offense of operating a boat while under the influence
21 of intoxicants in violation of ORS 830.325 or a municipal ordinance. Before the tests are adminis-
22 tered, the person requested to take the test shall be informed of the consequences of refusing to take
23 or failing to submit to the tests under ORS 830.545.

24 (2) If a person refuses or fails to submit to field sobriety tests as required by subsection (1) of
25 this section, evidence of the person's refusal or failure to submit is admissible in any criminal or
26 civil action or proceeding arising out of allegations that the person was operating a boat while un-
27 der the influence of intoxicants.

28 (3) Within the time required by the *[State Marine Board]* **State Parks and Recreation De-**
29 **partment** by rule, the arresting officer shall report the following information to the *[board]* **de-**
30 **partment:**

31 (a) Whether the person refused to submit to a test.

32 (b) Whether the person was informed of rights and consequences as described under ORS
33 830.545.

34 (4) A report required by this section may be made on one or more forms provided by the
35 *[board]* **department.**

36 **SECTION 77.** ORS 830.560 is amended to read:

37 830.560. (1) As used in this section:

38 (a) "Aquatic invasive species" means any aquatic life or marine life determined by the State Fish
39 and Wildlife Commission by rule to be invasive or any aquatic noxious weed determined by the State
40 Department of Agriculture to be invasive.

41 (b) "Launch" means any act that places a boat into a waterway for recreational boating, for
42 flushing or testing an engine or for any other purpose.

43 (2) Except as provided in subsection (3) of this section, a person may not launch a boat into the
44 waters of this state if:

45 (a) The boat has any visible aquatic species on its exterior hull or attached to any motor, pro-

1 pulsion system or component, anchor or other attached apparatus outside of the hull, or on the
2 trailer or other device used to transport the boat; or

3 (b) The boat has any aquatic invasive species within its bilge, livewell, motorwell or other in-
4 terior location.

5 (3) The State Fish and Wildlife Commission, in consultation with the State Department of Agri-
6 culture, by rule may allow the presence of certain aquatic species on or within a boat for activities
7 including but not limited to hunting and photography.

8 (4) The *[State Marine Board]* **State Parks and Recreation Department** shall provide informa-
9 tion to the public about any rules adopted under subsection (3) of this section.

10 **SECTION 78.** ORS 830.565 is amended to read:

11 830.565. (1) A person may not operate a manually propelled boat that is 10 feet or more in length
12 or a motorboat on the waters of this state without first obtaining an aquatic invasive species pre-
13 vention permit from the *[State Marine Board]* **State Parks and Recreation Department** under ORS
14 830.570.

15 (2) A person who obtains an aquatic invasive species prevention permit for a manually propelled
16 boat may use the permit on any manually propelled boat the person operates on the waters of this
17 state.

18 **SECTION 79.** ORS 830.570 is amended to read:

19 830.570. (1) The *[State Marine Board]* **State Parks and Recreation Department** shall issue and
20 renew an aquatic invasive species prevention permit to a person who pays the fee for the permit
21 described in ORS 830.575.

22 (2) The *[board]* **department** may appoint agents to issue aquatic invasive species prevention
23 permits.

24 (3) Agents shall issue permits in accordance with procedures prescribed by the *[board]* **depart-**
25 **ment** by rule and shall charge and collect the aquatic invasive species prevention permit fees pre-
26 scribed by law.

27 (4) The *[board]* **department** may authorize an agent other than a *[board]* **department** employee
28 to charge a service fee of \$2, in addition to the permit fee, for the issuance service performed by
29 the agent.

30 (5) The *[board]* **department** shall supply the agents with motorboat and manually propelled boat
31 aquatic invasive species prevention permits.

32 **SECTION 80.** ORS 830.580 is amended to read:

33 830.580. (1) The *[State Marine Board]* **State Parks and Recreation Department** shall adopt
34 rules for the implementation and administration of ORS 830.565 to 830.575, including but not limited
35 to the exemption of certain boats from the requirements of ORS 830.565.

36 (2) *[Nothing in ORS 830.565 to 830.575 prevents the board]* **ORS 830.565 to 830.575 do not pre-**
37 **vent the department** from contracting any service provided under ORS 830.565 to 830.575 to any
38 private person or entity or other unit of government.

39 **SECTION 81.** ORS 830.605 is amended to read:

40 830.605. (1) The *[State Marine Board]* **State Parks and Recreation Department** and the
41 Oregon Department of Aviation shall cooperate to publish and distribute information concerning
42 laws, rules and regulations that govern seaplane safety and operations in Oregon.

43 (2) As used in this section, "seaplane" has the meaning given that term in ORS 835.200.

44 **SECTION 82.** ORS 830.705 is amended to read:

45 830.705. (1) This section and ORS 830.710, 830.770, 830.780, 830.785, 830.795 to 830.805 and

1 830.830 to 830.870 do not apply to:

2 (a) A boat *[which]* **that** has a valid marine document issued by the United States Coast Guard
3 or any federal agency which succeeds to the duty of issuing marine documents.

4 (b) Foreign boats operated only temporarily in the waters of this state.

5 (c) A boat owned and operated by the United States or a state or by an entity or political sub-
6 division of the United States or a state, except recreational type public vessels.

7 (d) A ship's lifeboat used solely for lifesaving purposes.

8 (e) A boat belonging to a class of boats *[which]* **that** has been exempted from the provisions of
9 this section and ORS 830.710, 830.770, 830.780, 830.785, 830.795 to 830.805 and 830.830 to 830.870 by
10 the *[State Marine Board]* **State Parks and Recreation Department** as provided in ORS 830.110 (9).

11 (f) A boat already covered by a number in full force and effect *[which]* **that** has been issued to
12 it pursuant to federal laws or a federally approved numbering system of another state[;], provided
13 that such boat *[shall]* **may** not have been within this state for a period in excess of 60 consecutive
14 days.

15 (2) This section and ORS 830.710, 830.770, 830.780, 830.785, 830.795 to 830.805 and 830.830 to
16 830.870 *[do]* apply to all boats other than boats described in subsection (1) of this section *[which]*
17 **that** are propelled by machinery, whether or not the machinery is the principal source of
18 propulsion, and to sailboats *[which]* **that** are 12 feet or more in length.

19 (3) This section and ORS 830.300 and 830.710 to 830.870 do not apply to any vessel for which
20 an ocean charter vessel license has been issued and for which the fee has been paid as provided in
21 ORS 830.440 (2)(b).

22 **SECTION 83.** ORS 830.710 is amended to read:

23 830.710. (1) Within 30 days after the transfer of all or any part of the interest of the owner in
24 a boat, boathouse or floating home, or the abandonment or destruction of a boat, boathouse or
25 floating home, for which a valid identifying number has been awarded by this state, the owner shall
26 notify the *[State Marine Board]* **State Parks and Recreation Department** of the transfer of inter-
27 est, destruction or abandonment.

28 (2) Within 30 days after any change in the address of the owner, the owner of a boat, boathouse
29 or floating home for which a valid identifying number has been awarded by this state shall report
30 the change to the *[board]* **department**.

31 **SECTION 84.** ORS 830.715 is amended to read:

32 830.715. The *[State Marine Board]* **State Parks and Recreation Department** shall keep a cur-
33 rent record of outstanding certificates of title, certificates of number and registration and recorded
34 numbers, which shall be a public record open to inspection by the public during reasonable office
35 hours. However, the *[board]* **department** may charge a reasonable fee for furnishing information
36 concerning a boat, boathouse or floating home or its owner.

37 **SECTION 85.** ORS 830.720 is amended to read:

38 830.720. (1) An owner who scraps, dismantles or destroys a boat, boathouse or floating home and
39 a person who purchases a boat, boathouse or floating home as scrap or to be dismantled or de-
40 stroyed shall immediately cause the certificate of title to be mailed or delivered to the *[State Marine]*
41 *Board]* **State Parks and Recreation Department** for cancellation.

42 (2) Upon the destruction of the certificate of title record of any boat, boathouse or floating
43 home, the *[board]* **department** shall maintain a file disclosing the last owner and security interest
44 holders, if any, of the boat, boathouse or floating home as shown by the destroyed certificate of title
45 record.

1 **SECTION 86.** ORS 830.725 is amended to read:

2 830.725. The [*State Marine Board*] **State Parks and Recreation Department** may publish and
3 distribute to the sheriff, county assessor and county clerk of each county, the U. S. Coast Guard,
4 Department of State Police and other interested agencies current lists of the names and addresses
5 of boat, boathouse or floating home owners to whom valid, effective identifying numbers have been
6 issued. The lists, if published, shall be arranged both alphabetically by the name of the owner and
7 numerically by the identifying numbers.

8 **SECTION 87.** ORS 830.730 is amended to read:

9 830.730. [*No person shall*] **A person may not** give any false statement or information or assist
10 another to give any false statement or information in any application, notice, statement or report
11 to a peace officer or the [*State Marine Board*] **State Parks and Recreation Department**.

12 **SECTION 88.** ORS 830.745 is amended to read:

13 830.745. (1) In the event of the creation of a security interest in a boat, boathouse or floating
14 home for which a certificate of title has been issued, the owner shall sign in an application space
15 provided on the back and deliver the certificate of title to the person in whom the security interest
16 was created, who shall, within 10 days thereof, present the certificate to the [*State Marine Board*]
17 **State Parks and Recreation Department**, with the name of the owner shown thereon. In the event
18 a prior security interest holder is in possession of the certificate of title, the owner shall sign and
19 may arrange for direct delivery by the prior security interest holder to the [*board*] **department**. The
20 [*board*] **department**, upon payment of the required fee, shall issue a new certificate of title, note the
21 change upon the records in order of priority and mail the certificate to the security interest holder
22 first named on the certificate.

23 (2) Upon satisfaction of a security interest in a boat, boathouse or floating home for which a
24 certificate of title has been issued, the security interest holder affected, if the holder is in possession
25 of the certificate of title, shall sign a release on the certificate of title and deliver it to the security
26 interest holder next named, if any, or if none, to the owner. In the event the security interest holder
27 affected is not in possession of the certificate of title, the holder shall execute a release of interest
28 to the person entitled thereto who shall promptly deliver it to the holder of the certificate of title.
29 Within 10 days after the delivery of the certificate of title or release, the holder shall present the
30 certificate of title and release, if any, to the [*board*] **department**. Upon payment of the required fee,
31 the [*board*] **department** thereupon shall note the change upon its records and issue a new certifi-
32 cate of title to the first security interest holder then named, if any, otherwise to the owner.

33 (3) A security interest holder may without the consent of the owner assign interest in a boat,
34 boathouse or floating home to a person other than the owner without affecting the interest of the
35 owner or the validity or priority of the interest but a person without notice of the assignment is
36 protected in dealing with the security interest holder until the assignee is named as security interest
37 holder on the certificate. The assignee may have the certificate of title issued with the assignee
38 named as security interest holder upon delivery to the [*board*] **department** of the certificate with
39 the signature of the assignor releasing interest together with the required fee.

40 **SECTION 89.** ORS 830.750 is amended to read:

41 830.750. (1) If an owner transfers interest in a boat, boathouse or floating home for which an
42 Oregon certificate of title has been issued, other than by the creation of a security interest as pro-
43 vided by ORS 830.745, the owner shall, with the signed consent of the security interest holder shown
44 on the face of the certificate of title, indorse on the back of the certificate an assignment thereof,
45 with warranty of title in a form printed thereon and a statement of all unsatisfied security interests

1 shown on the face of the certificate. Except as provided in subsection (2) of this section, the
 2 transferee shall sign the certificate in an application space provided thereon, and shall indicate any
 3 new security interests in order of priority. The transferee or holder of the certificate shall, within
 4 10 days after the transfer, present the certificate accompanied by the required fee to the [*State*
 5 *Marine Board*] **State Parks and Recreation Department**, whereupon a new certificate of number
 6 or registration shall be issued and delivered to the transferee and a new certificate of title shall be
 7 issued to the transferee, and delivered to the first security interest holder in order of priority, if any,
 8 or if none, to the transferee.

9 (2) If the transferee is a dealer who purchases the boat, boathouse or floating home for resale,
 10 the transferor shall merely indorse the certificate of title, and the dealer shall not be required to
 11 present the certificate of title to the [*board*] **department** until the dealer transfers the boat,
 12 boathouse or floating home. However, the dealer shall notify immediately the [*board*] **department**
 13 that the boat, boathouse or floating home has been transferred to the dealer. Upon the transfer of
 14 the boat, boathouse or floating home by the dealer, the dealer shall deliver to the transferee the
 15 assigned certificate of title received by the dealer. The transferee, unless a dealer purchasing the
 16 boat, boathouse or floating home for resale, shall sign the certificate and complete it in the manner
 17 provided in subsection (1) of this section, whereupon the [*board*] **department** shall issue and deliver
 18 a new certificate of number or registration and a new certificate of title in the manner provided in
 19 subsection (1) of this section.

20 **SECTION 90.** ORS 830.755 is amended to read:

21 830.755. (1) In the event of the transfer by operation of law of the interest of an owner or se-
 22 curity interest holder in a boat, boathouse or floating home for which an Oregon certificate of title
 23 has been issued, the certificate of title, if available, shall be signed upon the reverse side by the
 24 executor, administrator, receiver, trustee, sheriff or other representative or successor in interest of
 25 the person whose interest is so transferred in lieu of the person. The representative or successor
 26 shall file with the [*State Marine Board*] **State Parks and Recreation Department** a notice of any
 27 transfer of the boat, boathouse or floating home by the representative or successor, together with
 28 evidence satisfactory to the [*board*] **department** of all facts entitling the representative or successor
 29 to make the transfer. Upon the receipt of satisfactory evidence of the facts, and the required fee,
 30 the [*board*] **department** shall issue a new certificate of title and a certificate of number or regis-
 31 tration. If a boat, boathouse or floating home is repossessed, satisfactory evidence must be pre-
 32 sented to the [*board*] **department** that the security interest holder has given at least 10 days' notice
 33 to the owner of the boat, boathouse or floating home, by registered mail or by certified mail with
 34 return receipt at the last-known post-office address of the owner the security interest holder's in-
 35 tention to apply for a certificate of title.

36 (2) As used in subsection (1) of this section, a transfer by operation of law includes inheritance,
 37 devise, bequest, order in bankruptcy or insolvency, execution sale, repossession upon default in
 38 performance of the terms of a security agreement, or any transfers effected other than by the vol-
 39 untary act of the person whose interest is transferred.

40 **SECTION 91.** ORS 830.585 is amended to read:

41 830.585. The Aquatic Invasive Species Prevention Fund is established in the State Treasury,
 42 separate and distinct from the General Fund. Interest earned by the Aquatic Invasive Species Pre-
 43 vention Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the
 44 [*State Marine Board*] **State Parks and Recreation Department** for the purpose of administering
 45 the aquatic invasive species prevention permit program under ORS 830.565 to 830.575 and preventing

1 and controlling aquatic invasive species.

2 **SECTION 92.** ORS 830.775 is amended to read:

3 830.775. (1) Notwithstanding the provisions of ORS 830.705, 830.710, 830.770, 830.780 to 830.805
4 and 830.830 to 830.870, [*no person shall*] **a person may not** operate a boat which is not used for
5 commercial purposes and has a valid marine document issued by the United States Coast Guard or
6 any federal agency which succeeds to the duty of issuing marine documents unless:

7 (a) The owner holds a certificate of registration issued in the name of the owner as owner.

8 (b) The certificate is carried on the boat.

9 (c) A decal awarded to the boat is conspicuously displayed.

10 (2) The [*State Marine Board*] **State Parks and Recreation Department** shall issue a certificate
11 of registration and a decal that recites its issuance by the [*board*] **department** as prescribed by ORS
12 830.790.

13 **SECTION 93.** ORS 830.785 is amended to read:

14 830.785. Subject to the provisions of ORS 830.830, the owner of a boat [*which*] **that** is operated
15 principally on the waters of this state shall apply to the [*State Marine Board*] **State Parks and**
16 **Recreation Department** for an identifying number. The application shall include the true name of
17 the owner, the residence or business address of the owner, a description of the boat and any other
18 information required by the [*board*] **department**. The application shall be signed by the owner and
19 shall be accompanied by the prescribed fee.

20 **SECTION 94.** ORS 830.795 is amended to read:

21 830.795. (1) Subject to the provisions of ORS 830.800, if the application is in order, the [*State*
22 *Marine Board*] **State Parks and Recreation Department** shall issue to the owner a certificate of
23 number [*which*] **that** shall state the identifying number awarded to the boat, the name and address
24 of the owner, the description of the boat, the issue date and the expiration date of the certificate
25 of number. The certificate of number shall be pocket size.

26 (2) The [*board*] **department** shall issue a set of validation stickers bearing the year through
27 which the certificate of number is issued. The stickers shall be placed three inches to the rear of
28 the identifying number placed on the boat as required by ORS 830.780.

29 **SECTION 95.** ORS 830.800 is amended to read:

30 830.800. (1) A certificate of number expires on December 31 of the year indicated on the certifi-
31 cate.

32 (2) The [*State Marine Board*] **State Parks and Recreation Department** may require the sur-
33 render of the expired certificate of number before issuing a new certificate of number.

34 (3) The identifying number awarded to a boat by the [*board*] **department** shall remain the same.

35 (4) An application for renewal of a certificate of number shall be made in the same manner as
36 provided in ORS 830.785. The application shall be accompanied by the fee prescribed by ORS
37 830.790. The [*board*] **department** shall renew certificates of number and issue validation stickers in
38 the same manner as provided in ORS 830.795.

39 **SECTION 96.** ORS 830.810 is amended to read:

40 830.810. (1) Except as otherwise provided in this subsection, a person may not operate a boat
41 for which an identifying number is required under ORS 830.705, 830.710, 830.770, 830.780 to 830.805
42 and 830.830 to 830.870, unless the owner has secured from the [*State Marine Board*] **State Parks**
43 **and Recreation Department** a certificate of title for the boat. This subsection does not apply to
44 operation of:

45 (a) Amphibious vehicles that have a valid title issued by the Department of Transportation.

1 (b) A boat for which an identifying number issued under ORS 830.830 is required.

2 (2) A certificate of title is prima facie evidence of the ownership of a boat or a security interest
 3 therein. A certificate of title is good for the life of the boat so long as the certificate is owned or
 4 held by the legal holder of the certificate.

5 (3) The [board] **State Parks and Recreation Department** may assess the following application
 6 fees:

7 (a) Original title or title transfer, \$30.

8 (b) Duplicate title, \$15.

9 (c) Duplicate certificate of number or registration, \$10.

10 (d) Duplicate validation stickers, \$10.

11 (4) The [board] **department** shall establish, by rule, penalty fees for late application for certif-
 12 icates required by this section or ORS 830.710. A penalty fee may not exceed \$50.

13 (5) Rules adopted pursuant to this section shall be in accordance with the provisions of ORS
 14 chapter 183.

15 **SECTION 97.** ORS 830.815 is amended to read:

16 830.815. (1) The [*State Marine Board*] **State Parks and Recreation Department** may refuse to
 17 issue a certificate of title or a certificate of number or registration if the [board] **department** de-
 18 termines at any time that an applicant for the certificate has:

19 (a) Given a false statement or false information in applying for the certificate;

20 (b) Otherwise failed to comply with the applicable provisions under ORS 830.060 to 830.145 and
 21 830.700 to 830.870 pertaining to application for certificates; or

22 (c) Been convicted of operating a boat while under the influence of an intoxicating liquor or
 23 controlled substance within one year of the date of application or within three years of the date of
 24 application if the record of conviction shows that the person willfully refused the request of a peace
 25 officer to submit to chemical testing of the breath or a field sobriety test pursuant to ORS 830.505
 26 and 830.550.

27 (2) After a hearing upon 10 days' notice, the [board] **department** may cancel a certificate of
 28 title or certificate of number or registration if the [board] **department** determines at any time that
 29 an owner, boat manufacturer or dealer named in the certificate:

30 (a) Gave a false statement or false information in applying for the certificate; or

31 (b) Otherwise failed to comply with the applicable provisions under ORS 830.060 to 830.145,
 32 830.700 to 830.715, 830.725, 830.730, 830.770, 830.780, 830.785, 830.795 to 830.820 and 830.830 to
 33 830.870 pertaining to applications for certificates.

34 (3) The [board] **department** shall automatically suspend the certificate of number for any boat
 35 if the [board] **department** receives notification of a conviction for violation of ORS 830.260 under
 36 ORS 830.270. The suspension under this subsection is not subject to hearing. The [board] **depart-**
 37 **ment** shall reinstate a certificate of number suspended under this subsection when the boat owner
 38 submits proof satisfactory to the [board] **department** that the boat has been approved by a person
 39 designated by the [board] **department** as meeting the standards for sound levels established by the
 40 [board] **department**.

41 (4) If the [board] **department** receives notification from any court in this state that any person
 42 who is charged with a boating offense and who is the registered owner of the boat has failed to
 43 appear as required by law or has failed to comply with the judgment of the sentencing court, the
 44 [board] **department** shall take the following actions:

45 (a) Notify, by certified mail, the registered owner of the boat involved in the offense of the

1 owner's failure to appear or comply with the judgment of the court. The notification shall include
 2 a copy of the citation issued to the owner and [will] **shall** inform the owner that the [board] **de-**
 3 **partment** will suspend the certificate of number for the boat 45 days from the date of the mailing
 4 of the notice by the [board] **department**. The notice shall include a statement that a hearing may
 5 be requested in writing within 10 days of the notice. Any hearing requested under this subsection
 6 shall be limited to the issue of whether the person is the person who failed to appear or comply with
 7 the judgment of the sentencing court.

8 (b) The [board] **department** shall suspend the certificate of number for the boat involved 45
 9 days after mailing notice of intent to suspend to the owner of the boat unless a hearing has been
 10 requested or, within the 45-day notice period, the [board] **department** receives notice from the court
 11 that the owner has appeared in court and is in compliance with any court order entered in the
 12 proceeding. Notice from the court may consist of a copy of any receipt or other document issued
 13 by the court indicating that the person has appeared and is in compliance with any court order.

14 (c) Upon suspending any certificate of number under this subsection, the [board] **department**
 15 may charge the owner a reinstatement fee sufficient to cover the actual expenses of the [board]
 16 **department** in processing the transactions described in this section. The [board] **department** shall
 17 reinstate any certificate of number suspended under this subsection upon receiving payment of any
 18 reinstatement fee and notice from the court that the owner has appeared and fully satisfied the
 19 judgment of the court.

20 (5) Conviction of operating a boat while under the influence of an intoxicating liquor or con-
 21 trolled substance under ORS 830.325 constitutes grounds for suspension of a person's certificate of
 22 number or registration for all boats owned by the person. The following provisions apply to such
 23 suspension:

24 (a) Upon receipt of a record of conviction for a violation of ORS 830.325, the [board] **depart-**
 25 **ment** shall notify the convicted person that all certificates of number or registration issued in the
 26 person's name are suspended. The notice shall include a statement that a hearing may be requested
 27 in writing within 10 days of the notice. Any hearing requested under this subsection shall be limited
 28 to the issue of whether the person is the person convicted.

29 (b) The suspension shall be for three years from the date of conviction if the record of con-
 30 viction shows that the person willfully refused the request of a peace officer to submit to chemical
 31 testing of the breath or a field sobriety test under ORS 830.505 and 830.550. Otherwise the period
 32 of suspension shall be for one year from the date of conviction.

33 **SECTION 98.** ORS 830.820 is amended to read:

34 830.820. The [State Marine Board] **State Parks and Recreation Department** may issue a du-
 35 plicate certificate of number or registration, or title, or a duplicate set of validation stickers upon
 36 application by the person entitled to hold a certificate or to be in possession of the validation
 37 stickers if the [board] **department** is satisfied that the original certificate or validation stickers
 38 have been lost, destroyed or mutilated.

39 **SECTION 99.** ORS 830.825 is amended to read:

40 830.825. (1) [No person shall] **A person may not** operate a boat on the waters of this state or
 41 be in possession of a boat for which the [State Marine Board] **State Parks and Recreation De-**
 42 **partment** has issued a certificate of boat title unless such boat has a hull identification number that
 43 complies with the requirements of this section. Hull identification numbers must be carved, burned,
 44 stamped, embossed, clearly imprinted or otherwise permanently affixed to the outboard side of the
 45 transom, or if there is no transom, to the outermost starboard side at the end of the hull that bears

1 the rudder or other steering mechanism above the waterline of the boat in such a way that alter-
 2 ation, removal or replacement would be obvious or evident. [No] **A** person, firm, association or cor-
 3 poration [shall] **may not** destroy, remove, alter, cover or deface any number awarded to a vessel
 4 by the [State Marine Board] **department** or the manufacturer's hull identification numbers.

5 (2) The hull identification numbers required under subsection (1) of this section shall comply
 6 with the following:

7 (a) All vessels built after 1984 shall have two identical hull identification numbers permanently
 8 affixed and displayed in accordance with federal regulations.

9 (b) The primary hull identification number shall be affixed to the outboard side of the vessel's
 10 transom, on the starboard side, within two inches of the top of the transom, gunwale or hull or deck
 11 joint, whichever is lowest, or if there is no transom, to the outermost starboard side at the end of
 12 the hull that bears the rudder or other steering mechanism above the waterline of the boat in such
 13 a way that alteration, removal or replacement would be obvious or evident.

14 (c) A duplicate hull identification number shall be affixed in an unexposed location on the inte-
 15 rior of the vessel or beneath a fitting or item of permanent hardware. A hull identification number
 16 may not be attached to any part of the vessel that is removable.

17 (d) A person who builds a vessel for the person's own use and not for the purpose of sale shall
 18 request a hull identification number from the [State Marine Board] **department** and affix the
 19 awarded number in accordance with this section.

20 **SECTION 100.** ORS 830.830 is amended to read:

21 830.830. (1) A dealer or boat manufacturer:

22 (a) May apply to the [State Marine Board] **State Parks and Recreation Department** for one
 23 or more identifying numbers issued under this section.

24 (b) Shall display an identifying number issued under this section on a boat while operating or
 25 using the boat for a purpose related to the testing, buying, selling or exchanging of the boat.

26 (2) The application for a number under this section shall include the name and the business
 27 address of the dealer or boat manufacturer. Any number of identifying numbers may be requested
 28 in the same application.

29 (3) An application for a number under this section shall be accompanied by the following fees:

30 (a) For the first number applied for, \$28.

31 (b) For each additional number applied for in any application and all renewals, \$6.

32 (4) The [board] **department** shall issue a certificate of number or registration for each identi-
 33 fying number awarded under this section in the same manner as provided in ORS 830.795. Numbers
 34 and certificates issued under this section are subject to the following:

35 (a) An identifying number is valid for not more than two years.

36 (b) No boat shall be described in the certificate and each certificate shall state that the identi-
 37 fying number has been awarded to a dealer or boat manufacturer.

38 (c) A certificate of number issued under this section expires on December 31 of the year indi-
 39 cated on the certificate.

40 (5) The provisions of ORS 830.800 (2) and (4) apply to a certificate of number issued under this
 41 section.

42 (6) An identifying number issued under this section shall be displayed on a boat of a dealer or
 43 boat manufacturer in the same manner as provided in ORS 830.780, except that the number may be
 44 temporarily attached.

45 (7) [No] **A** person other than a dealer or boat manufacturer or a representative of a dealer or

1 boat manufacturer *[shall]* **may not** display or use an identifying number issued under this section.

2 (8) *[No person shall]* **A person may not** use an identifying number issued under this section for
3 any purpose other than the purpose described in subsection (1) of this section.

4 **SECTION 101.** ORS 830.850 is amended to read:

5 830.850. (1) *[No person shall]* **A person may not** use a floating home or boathouse on the waters
6 of this state unless there is affixed to the floating home or boathouse in plain sight an identifying
7 plate with a unique number awarded to the floating home or boathouse by this state.

8 (2) *[No person shall]* **A person may not** use a floating home or boathouse for which an identi-
9 fying plate is required unless the owner has secured from the *[State Marine Board]* **State Parks**
10 **and Recreation Department** a certificate of title for the floating home or boathouse. A certificate
11 of title is prima facie evidence of the ownership of the floating home or boathouse or a security
12 interest therein. A certificate of title is good for the life of the floating home or boathouse so long
13 as the certificate is owned or held by the legal holder of the certificate. The *[board]* **department**
14 shall charge a fee of \$20 for issuing each certificate of title.

15 **SECTION 102.** ORS 830.855 is amended to read:

16 830.855. (1) The owner of a floating home or boathouse that is used principally on the waters
17 of this state shall apply to the *[State Marine Board]* **State Parks and Recreation Department** for
18 an identifying plate. The application shall include the true name of the owner, the residence or
19 business address of the owner, a description of the floating home or boathouse, the location of the
20 floating home or boathouse and any other information required by the *[board]* **department**. The
21 application shall be signed by the owner and be accompanied by a fee of \$20.

22 (2) Subject to ORS 830.860, if the application is in order, the *[board]* **department** shall issue to
23 the owner a certificate of title. The title shall contain the name and address of the owner, a de-
24 scription of the floating home or boathouse, the issue date, the location of the floating home or
25 boathouse and a statement that the title is valid and effective only so long as ownership and lo-
26 cation remain the same.

27 **SECTION 103.** ORS 830.860 is amended to read:

28 830.860. (1) A certificate of title for a floating home or boathouse is valid and effective only as
29 long as ownership and location remain the same.

30 (2) The *[State Marine Board]* **State Parks and Recreation Department** shall require the sur-
31 render of the certificate of title before issuing a new certificate of title unless the floating home
32 was abandoned by a tenant under ORS chapter 90.

33 (3) The identifying plate issued by the *[board]* **department** shall remain the same when a new
34 certificate of title is issued.

35 (4) Application for a new certificate of title shall be made in the manner provided in ORS
36 830.855. The application shall be accompanied by a fee of \$20. The *[board]* **department** shall issue
37 the new certificate of title in the manner provided in ORS 830.855.

38 **SECTION 104.** ORS 830.865 is amended to read:

39 830.865. In accordance with ORS chapter 183, the *[State Marine Board]* **State Parks and Re-**
40 **creation Department** shall adopt rules necessary to carry out the provisions of ORS 830.850 to
41 830.860.

42 **SECTION 105.** ORS 830.870 is amended to read:

43 830.870. Upon receipt of proof satisfactory to the *[State Marine Board]* **State Parks and Re-**
44 **creation Department** from the holder of a certificate issued pursuant to ORS 830.850 to 830.860
45 that the certificate has been lost, mutilated, destroyed or stolen, the *[board]* **department** shall issue

1 to the holder a duplicate certificate for a fee of \$20.

2 **SECTION 106.** ORS 830.875 is amended to read:

3 830.875. As used in ORS 830.880 to 830.895:

4 (1) "Component" means any severable portion of a boat that possesses or did possess an identification number.

5
6 (2) "Identification number" means a distinguishing number assigned to a boat or component by
7 the manufacturer, the [*State Marine Board*] **State Parks and Recreation Department** or a police
8 agency.

9 **SECTION 107.** ORS 830.880 is amended to read:

10 830.880. (1) When a peace officer discovers a boat or component from which a number awarded
11 by the [*State Marine Board*] **State Parks and Recreation Department** or the manufacturer's hull
12 identification number assigned to the boat or the component identification number has been removed,
13 defaced, covered, altered or destroyed, the peace officer may seize and hold [*it*] **the boat or**
14 **component** for identification and disposal as provided in ORS 830.880 to 830.895.

15 (2) The police agency having custody of the property shall have a specially qualified inspector
16 or peace officer inspect the property for the purpose of locating the identification number. If the
17 identification number is found, [*it*] **the number** shall be checked with the list of stolen boats maintained
18 by the National Crime Information Center. If the identification number is not found, the police
19 agency shall apply to the [*State Marine Board*] **department** for renumbering as provided in ORS
20 830.895.

21 **SECTION 108.** ORS 830.885 is amended to read:

22 830.885. (1) When the property seized under ORS 830.880 is not listed as stolen by the National
23 Crime Information Center and the hull identification number is established, the property shall be
24 returned to the person from whom [*it*] **the property** was seized if:

25 (a) The person can establish that the person is the owner of the property; or

26 (b) The person executes a good and valid surety bond in an amount at least equal to the market
27 value of the property and conditioned upon return of the property to the owner, if one can be established.
28 The bond will be for a period of time determined by the [*State Marine Board*] **State Parks**
29 **and Recreation Department**.

30 (2) If the person to whom the property was returned does not establish that the person is the
31 owner of the property the police agency holding the property shall make reasonable efforts to determine
32 the names and addresses of the owner and all persons of record having an interest in the
33 property. If the police agency is able to determine the names and addresses of the owner and such
34 other persons, [*it*] **the police agency** shall immediately notify the owner by registered or certified
35 mail of the disposition of the property.

36 (3) When the property seized under ORS 830.880 is not listed as stolen by the National Crime
37 Information Center and the hull identification numbers have been removed, altered or defaced and
38 the person from whom the property was seized cannot establish that the person is the owner of the
39 property, the sheriff of the county where the seizure took place shall take custody of the property
40 and sell the property at public auction in the manner provided in ORS 87.192 and 87.196 or dispose
41 of the property in a manner provided by local ordinance. If a bid for the property is not offered at
42 the public auction, the sheriff may destroy or otherwise dispose of the property.

43 **SECTION 109.** ORS 830.895 is amended to read:

44 830.895. (1) A police agency having custody of a boat or component for which an identification
45 number is not established or a person to whom a boat or component has been returned pursuant to

1 ORS 830.885 shall apply to the [*State Marine Board*] **State Parks and Recreation Department** for
2 an identification number.

3 (2) Except as provided in subsection (1) of this section, the [*board shall*] **department may** not
4 assign an identification number to a boat or component from which the identification number as-
5 signed to the boat or component by the [*board*] **department** has been removed, defaced, covered,
6 altered or destroyed unless the boat or component has been inspected pursuant to ORS 830.880.

7 **SECTION 110.** ORS 830.909 is amended to read:

8 830.909. (1) A person commits the offense of abandoning a boat, floating home or boathouse if
9 the person leaves a boat, floating home or boathouse on the waters of this state or upon any public
10 or private property except with the permission of the property owner, or at an established or at-
11 tended moorage or in any area leased for occupation by the Department of State Lands under ORS
12 chapter 274.

13 (2) The owner of the boat, floating home or boathouse as shown by the records of the [*State*
14 *Marine Board*] **State Parks and Recreation Department** shall be considered responsible for the
15 abandonment of the boat, floating home or boathouse in the manner prohibited by this section and
16 shall be liable for the cost of removal, cleanup and disposition of the abandoned boat, floating home
17 or boathouse.

18 (3) A boat, floating home or boathouse abandoned in violation of this section is subject to the
19 provisions for removal of an abandoned boat, floating home or boathouse under ORS 830.912 and
20 830.914 and to being sold or disposed of as provided under ORS 98.245.

21 **SECTION 111.** ORS 830.914 is amended to read:

22 830.914. (1) A removing authority may immediately take custody of a boat, floating home or
23 boathouse that is disabled, abandoned or left unattended on the waters of this state and that is in
24 such a location as to constitute a hazard or obstruction to other boats, floating homes or boathouses
25 using the waterway.

26 (2) The [*State Marine Board*] **State Parks and Recreation Department**, by rule, shall establish
27 additional criteria for determining when a boat, floating home or boathouse on the waters of this
28 state or upon public or private property is subject to being taken into immediate custody under this
29 section.

30 **SECTION 112.** ORS 830.922 is amended to read:

31 830.922. If there is no boat, floating home or boathouse identification number on a boat, floating
32 home or boathouse and there is no registration number or other markings through which the [*State*
33 *Marine Board*] **State Parks and Recreation Department** could identify the owner of the boat,
34 floating home or boathouse, then a removing authority otherwise required to provide notice under
35 ORS 830.917 is not required to provide such notice and the boat, floating home or boathouse may
36 be removed and disposed of as provided in ORS 98.245.

37 **SECTION 113.** ORS 830.924 is amended to read:

38 830.924. A person provided notice under ORS 830.917 or any other person who reasonably ap-
39 pears to have an interest in the boat, floating home or boathouse may request a hearing under this
40 section to contest the validity of the proposed removal and custody of a boat, floating home or
41 boathouse under ORS 830.912 by submitting a request for hearing to the removing authority not
42 more than five days after the posting of the notice. The five-day period in this section does not in-
43 clude holidays, Saturdays or Sundays. A hearing under this section shall comply with all of the fol-
44 lowing:

45 (1) If the removing authority proposing to remove a boat, floating home or boathouse under ORS

1 830.912 receives a request for hearing before the boat, floating home or boathouse is taken into
2 custody and removed, the boat, floating home or boathouse [*shall*] **may** not be removed unless the
3 boat, floating home or boathouse constitutes a hazard.

4 (2) A request for hearing shall be in writing and shall state the grounds upon which the person
5 requesting the hearing believes that the custody and removal of the boat, floating home or
6 boathouse is not justified.

7 (3) Upon receipt of a request for a hearing under this section, the removing authority shall set
8 a time for the hearing within 72 hours of the receipt of the request and shall provide notice of the
9 hearing to the person requesting the hearing and to the owners of the boat, floating home or
10 boathouse and any lessors or security interest holders shown in the records of the [*State Marine*
11 *Board*] **State Parks and Recreation Department**, if not the same as the person requesting the
12 hearing. The 72-hour period in this subsection does not include holidays, Saturdays or Sundays.

13 (4) If the removing authority finds, after hearing and by substantial evidence on the record, that
14 the custody and removal of a boat, floating home or boathouse was:

15 (a) Invalid, the removing authority shall order the immediate release of the boat, floating home
16 or boathouse to the owner or person with right of possession.

17 (b) Valid, the removing authority shall order that the boat, floating home or boathouse be held
18 in custody until the costs of the hearing and all salvage, towing and storage costs are paid by the
19 party claiming the boat, floating home or boathouse. If the boat, floating home or boathouse has not
20 yet been removed, the removing authority shall order its removal.

21 (5) A person who fails to appear at a hearing under this section is not entitled to another
22 hearing unless the person provides reasons satisfactory to the removing authority for the person's
23 failure to appear.

24 (6) A removing authority is required to provide only one hearing under this section for each
25 time the removing authority takes a boat, floating home or boathouse into custody and removes the
26 boat, floating home or boathouse or proposes to do so.

27 (7) A hearing under this section may be used to determine the reasonableness of any charges
28 that may be imposed for salvage, towing and storage of the boat, floating home or boathouse. Sal-
29 vage, towing and storage charges set by law, ordinance or rule or that comply with law, ordinance
30 or rule are reasonable for purposes of this subsection.

31 (8) A removing authority shall provide to the person requesting a hearing under this section a
32 written statement of the results of the hearing.

33 (9) Hearings held under this section may be informal in nature, but the presentation of evidence
34 in a hearing shall be consistent with the presentation of evidence required for contested cases under
35 ORS 183.450.

36 (10) The hearings officer at a hearing under this section may be an officer, official or employee
37 of the removing authority but shall not have participated in any determination or investigation re-
38 lated to taking into custody and removing the boat, floating home or boathouse that is the subject
39 of the hearing.

40 (11) The determination of a hearings officer at a hearing under this section is a final order and
41 is subject to appeal to the circuit court for the county in which the boat, floating home or boathouse
42 is located at the time notice is posted under ORS 830.917.

43 **SECTION 114.** ORS 830.926 is amended to read:

44 830.926. (1) The Abandoned Boat Removal and Cleanup Subaccount is established within the
45 Boating Safety, Law Enforcement and Facility Account. The subaccount shall consist of moneys

1 deposited into the subaccount by the [*State Marine Board*] **State Parks and Recreation Depart-**
 2 **ment** from fees collected pursuant to ORS 830.790 and 830.850. The moneys in the subaccount are
 3 continuously appropriated to the [*board*] **department** for the purposes specified in this section.

4 (2) The [*board*] **department** may not deposit more than \$150,000 per biennium into the subac-
 5 count and may not retain more than \$150,000 in the subaccount at any time. After the [*board*] **de-**
 6 **partment** has deposited \$150,000 into the subaccount under this subsection or any time there is
 7 more than \$150,000 in the subaccount, any remaining moneys from fees collected pursuant to ORS
 8 830.790 and 830.850 shall be deposited in the Boating Safety, Law Enforcement and Facility Account
 9 created under ORS 830.140.

10 (3) If the [*board*] **department** or a removing authority has been unsuccessful in collecting re-
 11 imbursement for removal from the water and cleanup expenses from an owner of an abandoned boat,
 12 floating home or boathouse that imposes an environmental threat or safety hazard to navigation, or
 13 the owner's insurance, the [*board*] **department** may use the moneys in the subaccount for:

14 (a) Paying the expenses of the [*board*] **department** in implementing ORS 830.907 to 830.927,
 15 limited to the expenses associated with the removal and cleanup of an abandoned boat of less than
 16 200 gross tons, an abandoned floating home or an abandoned boathouse; or

17 (b) Paying a removing authority for no more than 75 percent of the costs of the removal and
 18 cleanup of an abandoned boat of less than 200 gross tons, an abandoned floating home or an aban-
 19 doned boathouse, including any salvage, towing, storage or disposal costs.

20 **SECTION 115.** ORS 830.955 is amended to read:

21 830.955. (1) [*No person shall*] **A person may not** install a submersible polystyrene device on a
 22 dock, buoy or float unless the device is encapsulated by a protective covering or is designed to
 23 prevent the polystyrene from disintegrating into the waters of this state.

24 (2) A person may repair and maintain a dock or float existing on September 29, 1991, with an
 25 expanded submersible polystyrene device in accordance with rules adopted by the [*State Marine*
 26 *Board*] **State Parks and Recreation Department** under ORS 830.110.

27 (3) The [*board*] **department** shall publish and distribute information to the public regarding the
 28 proper use and installation of submersible polystyrene devices.

29 **SECTION 116.** ORS 830.994 is amended to read:

30 830.994. (1) When a person is convicted of a violation of any provision of ORS 830.325, the court
 31 shall comply with the following in addition to any other penalty imposed upon the person under ORS
 32 830.990:

33 (a) Order the person not to operate a boat for a period of one year;

34 (b) Order the person to complete a boating safety course approved by the [*State Marine Board*]
 35 **State Parks and Recreation Department**; and

36 (c) Include in the record of conviction a finding whether the person willfully refused the request
 37 of a peace officer to submit to chemical testing of the breath or a field sobriety test pursuant to
 38 ORS 830.505 and 830.550. For purposes of this subsection, a person shall be found to have willfully
 39 refused the request if the person was informed about rights and consequences concerning the test
 40 under ORS 830.505 and 830.545 and refused to submit to the test.

41 (2) The record of conviction of each person convicted of violating ORS 830.325 shall be sent by
 42 the court to the [*board*] **department** within 14 days of the entry of the judgment of conviction in
 43 the court register.

44 (3) A person who knowingly operates a boat in violation of a court order under subsection (1)(a)
 45 of this section commits a Class A misdemeanor.

1 **SECTION 117.** ORS 835.200 is amended to read:

2 835.200. (1) The State Aviation Board, pursuant to ORS 835.035 and utilizing the definitions
3 contained in ORS 830.005:

4 (a) Shall adopt rules governing seaplane safety and operations on state waters, as defined in
5 ORS 830.005, that shall be applicable to all seaplanes except when inconsistent with any applicable
6 laws or regulations of an agency of the United States.

7 (b) May adopt rules governing seaplane safety and operations on waters of this state, as defined
8 in ORS 830.005, that shall be applicable to all seaplanes except when inconsistent with any appli-
9 cable laws or regulations of an agency of the United States.

10 (2) The [*State Aviation*] board shall adopt the rules in subsection (1) of this section in consulta-
11 tion with [*the State Marine Board and*] the State Parks and Recreation Department.

12 (3) The rules in subsection (1) of this section shall include identification of zones and bodies of
13 water on which seaplanes may not land, take off or operate.

14 (4) As used in this section and ORS 835.210, “seaplane” means an aircraft equipped to land on
15 water.

16 **SECTION 118.** ORS 835.205 is amended to read:

17 835.205. For purposes of ORS 830.175, 830.180, 830.185 and 830.195, the Oregon Department of
18 Aviation, in cooperation with the [*State Marine Board*] **State Parks and Recreation Department**,
19 shall regulate boats that are seaplanes as provided in ORS 830.605 and 835.200.

20 **SECTION 119.** ORS 90.425 is amended to read:

21 90.425. (1) As used in this section:

22 (a) “Current market value” means the amount in cash, as determined by the county assessor,
23 that could reasonably be expected to be paid for a manufactured dwelling or floating home by an
24 informed buyer to an informed seller, each acting without compulsion in an arm’s-length transaction
25 occurring on the assessment date for the tax year or on the date of a subsequent reappraisal by the
26 county assessor.

27 (b) “Dispose of the personal property” means that, if reasonably appropriate, the landlord may
28 throw away the property or may give it without consideration to a nonprofit organization or to a
29 person unrelated to the landlord. The landlord may not retain the property for personal use or
30 benefit.

31 (c) “Goods” includes those goods left inside a recreational vehicle, manufactured dwelling or
32 floating home or left upon the rental space outside a recreational vehicle, manufactured dwelling
33 or floating home, whether the recreational vehicle, dwelling or home is located inside or outside of
34 a facility.

35 (d) “Lienholder” means any lienholder of an abandoned recreational vehicle, manufactured
36 dwelling or floating home, if the lien is of record or the lienholder is actually known to the landlord.

37 (e) “Of record” means:

38 (A) For a recreational vehicle that is not a manufactured structure as defined in ORS 446.561,
39 that a security interest has been properly recorded with the Department of Transportation pursuant
40 to ORS 802.200 (1)(a)(A) and 803.097.

41 (B) For a manufactured dwelling or recreational vehicle that is a manufactured structure as
42 defined in ORS 446.561, that a security interest has been properly recorded for the manufactured
43 dwelling or recreational vehicle in the records of the Department of Consumer and Business Ser-
44 vices pursuant to ORS 446.611 or on a certificate of title issued by the Department of Transportation
45 prior to May 1, 2005.

1 (C) For a floating home, that a security interest has been properly recorded with the [*State*
 2 *Marine Board*] **State Parks and Recreation Department** pursuant to ORS 830.740 to 830.755 for
 3 a home registered and titled with the [*board*] **department** pursuant to ORS 830.715.

4 (f) "Owner" means any owner of an abandoned recreational vehicle, manufactured dwelling or
 5 floating home, if different from the tenant and either of record or actually known to the landlord.

6 (g) "Personal property" means goods, vehicles and recreational vehicles and includes manufac-
 7 tured dwellings and floating homes not located in a facility. "Personal property" does not include
 8 manufactured dwellings and floating homes located in a facility and therefore subject to being
 9 stored, sold or disposed of as provided under ORS 90.675.

10 (2) A landlord may not store, sell or dispose of abandoned personal property except as provided
 11 by this section. This section governs the rights and obligations of landlords, tenants and any
 12 lienholders or owners in any personal property abandoned or left upon the premises by the tenant
 13 or any lienholder or owner in the following circumstances:

14 (a) The tenancy has ended by termination or expiration of a rental agreement or by
 15 relinquishment or abandonment of the premises and the landlord reasonably believes under all the
 16 circumstances that the tenant has left the personal property upon the premises with no intention
 17 of asserting any further claim to the premises or to the personal property;

18 (b) The tenant has been absent from the premises continuously for seven days after termination
 19 of a tenancy by a court order that has not been executed; or

20 (c) The landlord receives possession of the premises from the sheriff following restitution pur-
 21 suant to ORS 105.161.

22 (3) Prior to selling or disposing of the tenant's personal property under this section, the landlord
 23 must give a written notice to the tenant that must be:

24 (a) Personally delivered to the tenant; or

25 (b) Sent by first class mail addressed and mailed to the tenant at:

26 (A) The premises;

27 (B) Any post-office box held by the tenant and actually known to the landlord; and

28 (C) The most recent forwarding address if provided by the tenant or actually known to the
 29 landlord.

30 (4)(a) In addition to the notice required by subsection (3) of this section, in the case of an
 31 abandoned recreational vehicle, manufactured dwelling or floating home, a landlord shall also give
 32 a copy of the notice described in subsection (3) of this section to:

33 (A) Any lienholder of the recreational vehicle, manufactured dwelling or floating home;

34 (B) Any owner of the recreational vehicle, manufactured dwelling or floating home;

35 (C) The tax collector of the county where the manufactured dwelling or floating home is located;
 36 and

37 (D) The assessor of the county where the manufactured dwelling or floating home is located.

38 (b) The landlord shall give the notice copy required by this subsection by personal delivery or
 39 first class mail, except that for any lienholder, mail service must be both by first class mail and by
 40 certified mail with return receipt requested.

41 (c) A notice to lienholders under paragraph (a)(A) of this subsection must be sent to each
 42 lienholder at each address:

43 (A) Actually known to the landlord;

44 (B) Of record; and

45 (C) Provided to the landlord by the lienholder in a written notice that identifies the personal

1 property subject to the lien and that was sent to the landlord by certified mail with return receipt
2 requested within the preceding five years. The notice must identify the personal property by de-
3 scribing the physical address of the property.

4 (5) The notice required under subsection (3) of this section must state that:

5 (a) The personal property left upon the premises is considered abandoned;

6 (b) The tenant or any lienholder or owner must contact the landlord by a specified date, as
7 provided in subsection (6) of this section, to arrange for the removal of the abandoned personal
8 property;

9 (c) The personal property is stored at a place of safekeeping, except that if the property includes
10 a manufactured dwelling or floating home, the dwelling or home must be stored on the rented space;

11 (d) The tenant or any lienholder or owner, except as provided by subsection (18) of this section,
12 may arrange for removal of the personal property by contacting the landlord at a described tele-
13 phone number or address on or before the specified date;

14 (e) The landlord shall make the personal property available for removal by the tenant or any
15 lienholder or owner, except as provided by subsection (18) of this section, by appointment at rea-
16 sonable times;

17 (f) If the personal property is considered to be abandoned pursuant to subsection (2)(a) or (b)
18 of this section, the landlord may require payment of removal and storage charges, as provided by
19 subsection (7)(d) of this section, prior to releasing the personal property to the tenant or any
20 lienholder or owner;

21 (g) If the personal property is considered to be abandoned pursuant to subsection (2)(c) of this
22 section, the landlord may not require payment of storage charges prior to releasing the personal
23 property;

24 (h) If the tenant or any lienholder or owner fails to contact the landlord by the specified date,
25 or after that contact, fails to remove the personal property within 30 days for recreational vehicles,
26 manufactured dwellings and floating homes or 15 days for all other personal property, the landlord
27 may sell or dispose of the personal property. If the landlord reasonably believes that the personal
28 property will be eligible for disposal pursuant to subsection (10)(b) of this section and the landlord
29 intends to dispose of the property if the property is not claimed, the notice shall state that belief
30 and intent; and

31 (i) If the personal property includes a recreational vehicle, manufactured dwelling or floating
32 home and if applicable, there is a lienholder or owner that has a right to claim the recreational
33 vehicle, dwelling or home, except as provided by subsection (18) of this section.

34 (6) For purposes of subsection (5) of this section, the specified date by which a tenant, lienholder
35 or owner must contact a landlord to arrange for the disposition of abandoned personal property is:

36 (a) For abandoned recreational vehicles, manufactured dwellings or floating homes, not less than
37 45 days after personal delivery or mailing of the notice; or

38 (b) For all other abandoned personal property, not less than five days after personal delivery
39 or eight days after mailing of the notice.

40 (7) After notifying the tenant as required by subsection (3) of this section, the landlord:

41 (a) Shall store any abandoned manufactured dwelling or floating home on the rented space and
42 shall exercise reasonable care for the dwelling or home;

43 (b) Shall store all other abandoned personal property of the tenant, including goods left inside
44 a recreational vehicle, manufactured dwelling or floating home or left upon the rented space outside
45 a recreational vehicle, dwelling or home, in a place of safekeeping and shall exercise reasonable

1 care for the personal property, except that the landlord may:

2 (A) Promptly dispose of rotting food; and

3 (B) Allow an animal control agency to remove any abandoned pets or livestock. If an animal
4 control agency will not remove the abandoned pets or livestock, the landlord shall exercise reason-
5 able care for the animals given all the circumstances, including the type and condition of the ani-
6 mals, and may give the animals to an agency that is willing and able to care for the animals, such
7 as a humane society or similar organization;

8 (c) Except for manufactured dwellings and floating homes, may store the abandoned personal
9 property at the dwelling unit, move and store it elsewhere on the premises or move and store it at
10 a commercial storage company or other place of safekeeping; and

11 (d) Is entitled to reasonable or actual storage charges and costs incidental to storage or dis-
12 posal, including any cost of removal to a place of storage. In the case of an abandoned manufactured
13 dwelling or floating home, the storage charge may be no greater than the monthly space rent last
14 payable by the tenant.

15 (8) If a tenant, lienholder or owner, upon the receipt of the notice provided by subsection (3)
16 or (4) of this section or otherwise, responds by actual notice to the landlord on or before the spec-
17 ified date in the landlord's notice that the tenant, lienholder or owner intends to remove the per-
18 sonal property from the premises or from the place of safekeeping, the landlord must make that
19 personal property available for removal by the tenant, lienholder or owner by appointment at rea-
20 sonable times during the 15 days or, in the case of a recreational vehicle, manufactured dwelling
21 or floating home, 30 days following the date of the response, subject to subsection (18) of this sec-
22 tion. If the personal property is considered to be abandoned pursuant to subsection (2)(a) or (b) of
23 this section, but not pursuant to subsection (2)(c) of this section, the landlord may require payment
24 of removal and storage charges, as provided in subsection (7)(d) of this section, prior to allowing the
25 tenant, lienholder or owner to remove the personal property. Acceptance by a landlord of such
26 payment does not operate to create or reinstate a tenancy or create a waiver pursuant to ORS
27 90.412 or 90.417.

28 (9) Except as provided in subsections (18) to (20) of this section, if the tenant, lienholder or
29 owner of a recreational vehicle, manufactured dwelling or floating home does not respond within the
30 time provided by the landlord's notice, or the tenant, lienholder or owner does not remove the per-
31 sonal property within the time required by subsection (8) of this section or by any date agreed to
32 with the landlord, whichever is later, the tenant's, lienholder's or owner's personal property is con-
33 clusively presumed to be abandoned. The tenant and any lienholder or owner that have been given
34 notice pursuant to subsection (3) or (4) of this section shall, except with regard to the distribution
35 of sale proceeds pursuant to subsection (13) of this section, have no further right, title or interest
36 to the personal property and may not claim or sell the property.

37 (10) If the personal property is presumed to be abandoned under subsection (9) of this section,
38 the landlord then may:

39 (a) Sell the personal property at a public or private sale, provided that prior to the sale of a
40 recreational vehicle, manufactured dwelling or floating home:

41 (A) The landlord may seek to transfer ownership of record of the personal property by comply-
42 ing with the requirements of the appropriate state agency; and

43 (B) The landlord shall:

44 (i) Place a notice in a newspaper of general circulation in the county in which the recreational
45 vehicle, manufactured dwelling or floating home is located. The notice shall state:

- 1 (I) That the recreational vehicle, manufactured dwelling or floating home is abandoned;
- 2 (II) The tenant's and owner's name, if of record or actually known to the landlord;
- 3 (III) The address and any space number where the recreational vehicle, manufactured dwelling
4 or floating home is located, and any plate, registration or other identification number for a recre-
5 ational vehicle or floating home noted on the certificate of title, if actually known to the landlord;
- 6 (IV) Whether the sale is by private bidding or public auction;
- 7 (V) Whether the landlord is accepting sealed bids and, if so, the last date on which bids will be
8 accepted; and
- 9 (VI) The name and telephone number of the person to contact to inspect the recreational vehi-
10 cle, manufactured dwelling or floating home;
- 11 (ii) At a reasonable time prior to the sale, give a copy of the notice required by sub-
12 subparagraph (i) of this subparagraph to the tenant and to any lienholder and owner, by personal
13 delivery or first class mail, except that for any lienholder, mail service must be by first class mail
14 with certificate of mailing;
- 15 (iii) Obtain an affidavit of publication from the newspaper to show that the notice required un-
16 der sub-subparagraph (i) of this subparagraph ran in the newspaper at least one day in each of two
17 consecutive weeks prior to the date scheduled for the sale or the last date bids will be accepted;
18 and
- 19 (iv) Obtain written proof from the county that all property taxes and assessments on the manu-
20 factured dwelling or floating home have been paid or, if not paid, that the county has authorized the
21 sale, with the sale proceeds to be distributed pursuant to subsection (13) of this section;
- 22 (b) Destroy or otherwise dispose of the personal property if the landlord determines that:
- 23 (A) For a manufactured dwelling or floating home, the current market value of the property is
24 \$8,000 or less as determined by the county assessor; or
- 25 (B) For all other personal property, the reasonable current fair market value is \$500 or less or
26 so low that the cost of storage and conducting a public sale probably exceeds the amount that would
27 be realized from the sale; or
- 28 (c) Consistent with paragraphs (a) and (b) of this subsection, sell certain items and destroy or
29 otherwise dispose of the remaining personal property.
- 30 (11)(a) A public or private sale authorized by this section must:
- 31 (A) For a recreational vehicle, manufactured dwelling or floating home, be conducted consistent
32 with the terms listed in subsection (10)(a)(B)(i) of this section. Every aspect of the sale including the
33 method, manner, time, place and terms must be commercially reasonable; or
- 34 (B) For all other personal property, be conducted under the provisions of ORS 79.0610.
- 35 (b) If there is no buyer at a sale of a manufactured dwelling or floating home, the personal
36 property is considered to be worth \$8,000 or less, regardless of current market value, and the land-
37 lord shall destroy or otherwise dispose of the personal property.
- 38 (12) Notwithstanding ORS 446.155 (1) and (2), unless a landlord intentionally misrepresents the
39 condition of a manufactured dwelling or floating home, the landlord is not liable for the condition
40 of the dwelling or home to:
- 41 (a) A buyer of the dwelling or home at a sale pursuant to subsection (10)(a) of this section, with
42 or without consideration; or
- 43 (b) A person or nonprofit organization to whom the landlord gives the dwelling or home pursu-
44 ant to subsection (1)(b), (10)(b) or (11)(b) of this section.
- 45 (13)(a) The landlord may deduct from the proceeds of the sale:

1 (A) The reasonable or actual cost of notice, storage and sale; and

2 (B) Unpaid rent.

3 (b) If the sale was of a manufactured dwelling or floating home, after deducting the amounts
4 listed in paragraph (a) of this subsection, the landlord shall remit the remaining proceeds, if any, to
5 the county tax collector to the extent of any unpaid property taxes and assessments owed on the
6 dwelling or home.

7 (c) If the sale was of a recreational vehicle, manufactured dwelling or floating home, after de-
8 ducting the amounts listed in paragraphs (a) and (b) of this subsection, if applicable, the landlord
9 shall remit the remaining proceeds, if any, to any lienholder to the extent of any unpaid balance
10 owed on the lien on the recreational vehicle, dwelling or home.

11 (d) After deducting the amounts listed in paragraphs (a), (b) and (c) of this subsection, if appli-
12 cable, the landlord shall remit to the tenant or owner the remaining proceeds, if any, together with
13 an itemized accounting.

14 (e) If the tenant or owner cannot after due diligence be found, the landlord shall deposit the
15 remaining proceeds with the county treasurer of the county in which the sale occurred. If not
16 claimed within three years, the deposited proceeds revert to the general fund of the county and are
17 available for general purposes.

18 (14) The county tax collector shall cancel all unpaid property taxes and assessments owed on
19 a manufactured dwelling or floating home, as provided under ORS 311.790, only under one of the
20 following circumstances:

21 (a) The landlord disposes of the manufactured dwelling or floating home after a determination
22 described in subsection (10)(b) of this section.

23 (b) There is no buyer of the manufactured dwelling or floating home at a sale described under
24 subsection (11) of this section.

25 (c)(A) There is a buyer of the manufactured dwelling or floating home at a sale described under
26 subsection (11) of this section;

27 (B) The current market value of the manufactured dwelling or floating home is \$8,000 or less;
28 and

29 (C) The proceeds of the sale are insufficient to satisfy the unpaid property taxes and assessments
30 owed on the dwelling or home after distribution of the proceeds pursuant to subsection (13) of this
31 section.

32 (d)(A) The landlord buys the manufactured dwelling or floating home at a sale described under
33 subsection (11) of this section;

34 (B) The current market value of the manufactured dwelling or floating home is more than \$8,000;

35 (C) The proceeds of the sale are insufficient to satisfy the unpaid property taxes and assessments
36 owed on the manufactured dwelling or floating home after distribution of the proceeds pursuant to
37 subsection (13) of this section; and

38 (D) The landlord disposes of the manufactured dwelling or floating home.

39 (15) The landlord is not responsible for any loss to the tenant, lienholder or owner resulting
40 from storage of personal property in compliance with this section unless the loss was caused by the
41 landlord's deliberate or negligent act. In the event of a deliberate and malicious violation, the
42 landlord is liable for twice the actual damages sustained by the tenant, lienholder or owner.

43 (16) Complete compliance in good faith with this section shall constitute a complete defense in
44 any action brought by a tenant, lienholder or owner against a landlord for loss or damage to such
45 personal property disposed of pursuant to this section.

1 (17) If a landlord does not comply with this section:

2 (a) The tenant is relieved of any liability for damage to the premises caused by conduct that
3 was not deliberate, intentional or grossly negligent and for unpaid rent and may recover from the
4 landlord up to twice the actual damages sustained by the tenant;

5 (b) A lienholder or owner aggrieved by the noncompliance may recover from the landlord the
6 actual damages sustained by the lienholder or owner. ORS 90.255 does not authorize an award of
7 attorney fees to the prevailing party in any action arising under this paragraph; and

8 (c) A county tax collector aggrieved by the noncompliance may recover from the landlord the
9 actual damages sustained by the tax collector, if the noncompliance is part of an effort by the
10 landlord to defraud the tax collector. ORS 90.255 does not authorize an award of attorney fees to
11 the prevailing party in any action arising under this paragraph.

12 (18) In the case of an abandoned recreational vehicle, manufactured dwelling or floating home,
13 the provisions of this section regarding the rights and responsibilities of a tenant to the abandoned
14 vehicle, dwelling or home also apply to any lienholder except that the lienholder may not sell or
15 remove the vehicle, dwelling or home unless:

16 (a) The lienholder has foreclosed its lien on the recreational vehicle, manufactured dwelling or
17 floating home;

18 (b) The tenant or a personal representative or designated person described in subsection (20)
19 of this section has waived all rights under this section pursuant to subsection (26) of this section;
20 or

21 (c) The notice and response periods provided by subsections (6) and (8) of this section have ex-
22 pired.

23 (19)(a) In the case of an abandoned manufactured dwelling or floating home but not including
24 a dwelling or home abandoned following a termination pursuant to ORS 90.429 and except as pro-
25 vided by subsection (20)(d) and (e) of this section, if a lienholder makes a timely response to a notice
26 of abandoned personal property pursuant to subsections (6) and (8) of this section and so requests,
27 a landlord shall enter into a written storage agreement with the lienholder providing that the
28 dwelling or home may not be sold or disposed of by the landlord for up to 12 months. A storage
29 agreement entitles the lienholder to store the personal property on the previously rented space
30 during the term of the agreement, but does not entitle anyone to occupy the personal property.

31 (b) The lienholder's right to a storage agreement arises upon the failure of the tenant, owner
32 or, in the case of a deceased tenant, the personal representative, designated person, heir or devisee
33 to remove or sell the dwelling or home within the allotted time.

34 (c) To exercise the right to a storage agreement under this subsection, in addition to contacting
35 the landlord with a timely response as described in paragraph (a) of this subsection, the lienholder
36 must enter into the proposed storage agreement within 60 days after the landlord gives a copy of
37 the agreement to the lienholder. The landlord shall give a copy of the proposed storage agreement
38 to the lienholder in the same manner as provided by subsection (4)(b) of this section. The landlord
39 may include a copy of the proposed storage agreement with the notice of abandoned property re-
40 quired by subsection (4) of this section. A lienholder enters into a storage agreement by signing a
41 copy of the agreement provided by the landlord and personally delivering or mailing the signed copy
42 to the landlord within the 60-day period.

43 (d) The storage agreement may require, in addition to other provisions agreed to by the landlord
44 and the lienholder, that:

45 (A) The lienholder make timely periodic payment of all storage charges, as described in sub-

1 section (7)(d) of this section, accruing from the commencement of the 45-day period described in
2 subsection (6) of this section. A storage charge may include a utility or service charge, as described
3 in ORS 90.532, if limited to charges for electricity, water, sewer service and natural gas and if in-
4 cidental to the storage of personal property. A storage charge may not be due more frequently than
5 monthly;

6 (B) The lienholder pay a late charge or fee for failure to pay a storage charge by the date re-
7 quired in the agreement, if the amount of the late charge is no greater than for late charges de-
8 scribed in the rental agreement between the landlord and the tenant; and

9 (C) The lienholder maintain the personal property and the space on which the personal property
10 is stored in a manner consistent with the rights and obligations described in the rental agreement
11 between the landlord and the tenant.

12 (e) During the term of an agreement described under this subsection, the lienholder has the right
13 to remove or sell the property, subject to the provisions of the lien. Selling the property includes a
14 sale to a purchaser who wishes to leave the dwelling or home on the rented space and become a
15 tenant, subject to any conditions previously agreed to by the landlord and tenant regarding the
16 landlord's approval of a purchaser or, if there was no such agreement, any reasonable conditions
17 by the landlord regarding approval of any purchaser who wishes to leave the dwelling or home on
18 the rented space and become a tenant. The landlord also may condition approval for occupancy of
19 any purchaser of the property upon payment of all unpaid storage charges and maintenance costs.

20 (f)(A) If the lienholder violates the storage agreement, the landlord may terminate the agreement
21 by giving at least 90 days' written notice to the lienholder stating facts sufficient to notify the
22 lienholder of the reason for the termination. Unless the lienholder corrects the violation within the
23 notice period, the agreement terminates as provided and the landlord may sell or dispose of the
24 dwelling or home without further notice to the lienholder.

25 (B) After a landlord gives a termination notice pursuant to subparagraph (A) of this paragraph
26 for failure of the lienholder to pay a storage charge and the lienholder corrects the violation, if the
27 lienholder again violates the storage agreement by failing to pay a subsequent storage charge, the
28 landlord may terminate the agreement by giving at least 30 days' written notice to the lienholder
29 stating facts sufficient to notify the lienholder of the reason for termination. Unless the lienholder
30 corrects the violation within the notice period, the agreement terminates as provided and the land-
31 lord may sell or dispose of the property without further notice to the lienholder.

32 (C) A lienholder may terminate a storage agreement at any time upon at least 14 days' written
33 notice to the landlord and may remove the property from the rented space if the lienholder has paid
34 all storage charges and other charges as provided in the agreement.

35 (g) Upon the failure of a lienholder to enter into a storage agreement as provided by this sub-
36 section or upon termination of an agreement, unless the parties otherwise agree or the lienholder
37 has sold or removed the manufactured dwelling or floating home, the landlord may sell or dispose
38 of the property pursuant to this section without further notice to the lienholder.

39 (20) If the personal property is a manufactured dwelling or floating home and is considered
40 abandoned as a result of the death of a tenant who was the only tenant and who owned the dwelling
41 or home, this section applies, except as follows:

42 (a) The following persons have the same rights and responsibilities regarding the abandoned
43 dwelling or home as a tenant:

44 (A) Any personal representative named in a will or appointed by a court to act for the deceased
45 tenant.

1 (B) Any person designated in writing by the tenant to be contacted by the landlord in the event
2 of the tenant's death.

3 (b) The notice required by subsection (3) of this section must be:

4 (A) Sent by first class mail to the deceased tenant at the premises; and

5 (B) Personally delivered or sent by first class mail to any personal representative or designated
6 person, if actually known to the landlord.

7 (c) The notice described in subsection (5) of this section must refer to any personal represen-
8 tative or designated person, instead of the deceased tenant, and must incorporate the provisions of
9 this subsection.

10 (d) If a personal representative, designated person or other person entitled to possession of the
11 property, such as an heir or devisee, responds by actual notice to a landlord within the 45-day period
12 provided by subsection (6) of this section and so requests, the landlord shall enter into a written
13 storage agreement with the representative or person providing that the dwelling or home may not
14 be sold or disposed of by the landlord for up to 90 days or until conclusion of any probate pro-
15 ceedings, whichever is later. A storage agreement entitles the representative or person to store the
16 personal property on the previously rented space during the term of the agreement, but does not
17 entitle anyone to occupy the personal property. If such an agreement is entered, the landlord may
18 not enter a similar agreement with a lienholder pursuant to subsection (19) of this section until the
19 agreement with the personal representative or designated person ends.

20 (e) If a personal representative or other person requests that a landlord enter into a storage
21 agreement, subsection (19)(c), (d) and (f)(C) of this section applies, with the representative or person
22 having the rights and responsibilities of a lienholder with regard to the storage agreement.

23 (f) During the term of an agreement described under paragraph (d) of this subsection, the rep-
24 resentative or person has the right to remove or sell the dwelling or home, including a sale to a
25 purchaser or a transfer to an heir or devisee where the purchaser, heir or devisee wishes to leave
26 the dwelling or home on the rented space and become a tenant, subject to any conditions previously
27 agreed to by the landlord and tenant regarding the landlord's approval for occupancy of a purchaser,
28 heir or devisee or, if there was no such agreement, any reasonable conditions by the landlord re-
29 garding approval for occupancy of any purchaser, heir or devisee who wishes to leave the dwelling
30 or home on the rented space and become a tenant. The landlord also may condition approval for
31 occupancy of any purchaser, heir or devisee of the dwelling or home upon payment of all unpaid
32 storage charges and maintenance costs.

33 (g) If the representative or person violates the storage agreement, the landlord may terminate
34 the agreement by giving at least 30 days' written notice to the representative or person stating facts
35 sufficient to notify the representative or person of the reason for the termination. Unless the rep-
36 resentative or person corrects the violation within the notice period, the agreement terminates as
37 provided and the landlord may sell or dispose of the dwelling or home without further notice to the
38 representative or person.

39 (h) Upon the failure of a representative or person to enter into a storage agreement as provided
40 by this subsection or upon termination of an agreement, unless the parties otherwise agree or the
41 representative or person has sold or removed the manufactured dwelling or floating home, the
42 landlord may sell or dispose of the property pursuant to this section without further notice to the
43 representative or person.

44 (21) If the personal property is other than a manufactured dwelling or floating home and is
45 considered abandoned as a result of the death of a tenant who was the only tenant and who owned

1 the personal property, this section applies except as follows:

2 (a) The following persons have the same rights and responsibilities regarding the abandoned
3 personal property as a tenant:

4 (A) An heir or devisee.

5 (B) Any personal representative named in a will or appointed by a court to act for the deceased
6 tenant.

7 (C) Any person designated in writing by the tenant to be contacted by the landlord in the event
8 of the tenant's death.

9 (b) The notice required by subsection (3) of this section must be:

10 (A) Sent by first class mail to the deceased tenant at the premises;

11 (B) Personally delivered or sent by first class mail to any heir, devisee, personal representative
12 or designated person, if actually known to the landlord; and

13 (C) Sent by first class mail to the attention of an estate administrator of the Department of State
14 Lands.

15 (c) The notice described in subsection (5) of this section must refer to the heir, devisee, personal
16 representative, designated person or estate administrator of the department, instead of the deceased
17 tenant, and must incorporate the provisions of this subsection.

18 (d) The landlord shall allow a person that is an heir, devisee or personal representative of the
19 tenant, or an estate administrator of the department, to remove the personal property if the person
20 contacts the landlord within the period provided by subsection (6) of this section, complies with the
21 requirements of this section and provides the landlord with reasonable evidence that the person is
22 an heir, devisee or personal representative, or an estate administrator of the department.

23 (e) If neither an heir, devisee nor personal representative of the tenant, nor an estate adminis-
24 trator of the department, contacts the landlord within the time period provided by subsection (6) of
25 this section, the landlord shall allow removal of the personal property by the designated person of
26 the tenant, if the designated person contacts the landlord within that period and complies with the
27 requirements of this section and provides the landlord with reasonable evidence that the person is
28 the designated person.

29 (f) A landlord who allows removal of personal property under this subsection is not liable to
30 another person that has a claim or interest in the personal property.

31 (22) If a governmental agency determines that the condition of a manufactured dwelling, floating
32 home or recreational vehicle abandoned under this section constitutes an extreme health or safety
33 hazard under state or local law and the agency determines that the hazard endangers others in the
34 immediate vicinity and requires quick removal of the property, the landlord may sell or dispose of
35 the property pursuant to this subsection. The landlord shall comply with all provisions of this sec-
36 tion, except as follows:

37 (a) The date provided in subsection (6) of this section by which a tenant, lienholder, owner,
38 personal representative or designated person must contact a landlord to arrange for the disposition
39 of the property must be not less than 15 days after personal delivery or mailing of the notice re-
40 quired by subsection (3) of this section.

41 (b) The date provided in subsections (8) and (9) of this section by which a tenant, lienholder,
42 owner, personal representative or designated person must remove the property must be not less than
43 seven days after the tenant, lienholder, owner, personal representative or designated person contacts
44 the landlord.

45 (c) The notice required by subsection (3) of this section must be as provided in subsection (5)

1 of this section, except that:

2 (A) The dates and deadlines in the notice for contacting the landlord and removing the property
3 must be consistent with this subsection;

4 (B) The notice must state that a governmental agency has determined that the property consti-
5 tutes an extreme health or safety hazard and must be removed quickly; and

6 (C) The landlord shall attach a copy of the agency's determination to the notice.

7 (d) If the tenant, a lienholder, owner, personal representative or designated person does not re-
8 move the property within the time allowed, the landlord or a buyer at a sale by the landlord under
9 subsection (11) of this section shall promptly remove the property from the facility.

10 (e) A landlord is not required to enter into a storage agreement with a lienholder, owner, per-
11 sonal representative or designated person pursuant to subsection (19) of this section.

12 (23)(a) If an official or agency referred to in ORS 453.876 notifies the landlord that the official
13 or agency has determined that all or part of the premises is unfit for use as a result of the presence
14 of an illegal drug manufacturing site involving methamphetamine, and the landlord complies with
15 this subsection, the landlord is not required to comply with subsections (1) to (22) and (24) to (27)
16 of this section with regard to personal property left on the portion of the premises that the official
17 or agency has determined to be unfit for use.

18 (b) Upon receiving notice from an official or agency determining the premises to be unfit for use,
19 the landlord shall promptly give written notice to the tenant as provided in subsection (3) of this
20 section. The landlord shall also attach a copy of the notice in a secure manner to the main entrance
21 of the dwelling unit. The notice to the tenant shall include a copy of the official's or agency's notice
22 and state:

23 (A) That the premises, or a portion of the premises, has been determined by an official or agency
24 to be unfit for use due to contamination from the manufacture of methamphetamine and that as a
25 result subsections (1) to (22) and (24) to (27) of this section do not apply to personal property left
26 on any portion of the premises determined to be unfit for use;

27 (B) That the landlord has hired, or will hire, a contractor to assess the level of contamination
28 of the site and to decontaminate the site;

29 (C) That upon hiring the contractor, the landlord will provide to the tenant the name, address
30 and telephone number of the contractor; and

31 (D) That the tenant may contact the contractor to determine whether any of the tenant's per-
32 sonal property may be removed from the premises or may be decontaminated at the tenant's expense
33 and then removed.

34 (c) To the extent consistent with rules of the Department of Human Services, the contractor
35 may release personal property to the tenant.

36 (d) If the contractor and the department determine that the premises or the tenant's personal
37 property is not unfit for use, upon notification by the department of the determination, the landlord
38 shall comply with subsections (1) to (22) and (24) to (27) of this section for any personal property left
39 on the premises.

40 (e) Except as provided in paragraph (d) of this subsection, the landlord is not responsible for
41 storing or returning any personal property left on the portion of the premises that is unfit for use.

42 (24) In the case of an abandoned recreational vehicle, manufactured dwelling or floating home
43 that is owned by someone other than the tenant, the provisions of this section regarding the rights
44 and responsibilities of a tenant to the abandoned vehicle, dwelling or home also apply to that owner,
45 with regard only to the vehicle, dwelling or home, and not to any goods left inside or outside the

1 vehicle, dwelling or home.

2 (25) In the case of an abandoned motor vehicle, the procedure authorized by ORS 98.830 and
 3 98.835 for removal of abandoned motor vehicles from private property may be used by a landlord
 4 as an alternative to the procedures required in this section.

5 (26)(a) A landlord may sell or dispose of a tenant’s abandoned personal property without com-
 6 plying with subsections (1) to (25) and (27) of this section if, after termination of the tenancy or no
 7 more than seven days prior to the termination of the tenancy, the following parties so agree in a
 8 writing entered into in good faith:

9 (A) The landlord;

10 (B) The tenant, or for an abandonment as the result of the death of a tenant who was the only
 11 tenant, the personal representative, designated person or other person entitled to possession of the
 12 personal property, such as an heir or devisee, as described in subsection (20) or (21) of this section;
 13 and

14 (C) In the case of a manufactured dwelling, floating home or recreational vehicle, any owner and
 15 any lienholder.

16 (b) A landlord may not, as part of a rental agreement, require a tenant, a personal represen-
 17 tative, a designated person or any lienholder or owner to waive any right provided by this section.

18 (27) Until personal property is conclusively presumed to be abandoned under subsection (9) of
 19 this section, a landlord does not have a lien pursuant to ORS 87.152 for storing the personal prop-
 20 erty.

21 **SECTION 120.** ORS 90.675 is amended to read:

22 90.675. (1) As used in this section:

23 (a) “Current market value” means the amount in cash, as determined by the county assessor,
 24 that could reasonably be expected to be paid for personal property by an informed buyer to an in-
 25 formed seller, each acting without compulsion in an arm’s-length transaction occurring on the as-
 26 sessment date for the tax year or on the date of a subsequent reappraisal by the county assessor.

27 (b) “Dispose of the personal property” means that, if reasonably appropriate, the landlord may
 28 throw away the property or may give it without consideration to a nonprofit organization or to a
 29 person unrelated to the landlord. The landlord may not retain the property for personal use or
 30 benefit.

31 (c) “Lienholder” means any lienholder of abandoned personal property, if the lien is of record
 32 or the lienholder is actually known to the landlord.

33 (d) “Of record” means:

34 (A) For a manufactured dwelling, that a security interest has been properly recorded in the re-
 35 cords of the Department of Consumer and Business Services pursuant to ORS 446.611 or on a cer-
 36 tificate of title issued by the Department of Transportation prior to May 1, 2005.

37 (B) For a floating home, that a security interest has been properly recorded with the [*State*
 38 *Marine Board*] **State Parks and Recreation Department** pursuant to ORS 830.740 to 830.755 for
 39 a home registered and titled with the [*board*] **department** pursuant to ORS 830.715.

40 (e) “Personal property” means only a manufactured dwelling or floating home located in a fa-
 41 cility and subject to ORS 90.505 to 90.840. “Personal property” does not include goods left inside a
 42 manufactured dwelling or floating home or left upon a rented space and subject to disposition under
 43 ORS 90.425.

44 (2) A landlord may not store, sell or dispose of abandoned personal property except as provided
 45 by this section. This section governs the rights and obligations of landlords, tenants and any

1 lienholders in any personal property abandoned or left upon the premises by the tenant or any
 2 lienholder in the following circumstances:

3 (a) The tenancy has ended by termination or expiration of a rental agreement or by
 4 relinquishment or abandonment of the premises and the landlord reasonably believes under all the
 5 circumstances that the tenant has left the personal property upon the premises with no intention
 6 of asserting any further claim to the premises or to the personal property;

7 (b) The tenant has been absent from the premises continuously for seven days after termination
 8 of a tenancy by a court order that has not been executed; or

9 (c) The landlord receives possession of the premises from the sheriff following restitution pur-
 10 suant to ORS 105.161.

11 (3) Prior to selling or disposing of the tenant's personal property under this section, the landlord
 12 must give a written notice to the tenant that must be:

13 (a) Personally delivered to the tenant; or

14 (b) Sent by first class mail addressed and mailed to the tenant at:

15 (A) The premises;

16 (B) Any post-office box held by the tenant and actually known to the landlord; and

17 (C) The most recent forwarding address if provided by the tenant or actually known to the
 18 landlord.

19 (4)(a) A landlord shall also give a copy of the notice described in subsection (3) of this section
 20 to:

21 (A) Any lienholder of the personal property;

22 (B) The tax collector of the county where the personal property is located; and

23 (C) The assessor of the county where the personal property is located.

24 (b) The landlord shall give the notice copy required by this subsection by personal delivery or
 25 first class mail, except that for any lienholder, mail service must be both by first class mail and by
 26 certified mail with return receipt requested.

27 (c) A notice to lienholders under paragraph (a)(A) of this subsection must be sent to each
 28 lienholder at each address:

29 (A) Actually known to the landlord;

30 (B) Of record; and

31 (C) Provided to the landlord by the lienholder in a written notice that identifies the personal
 32 property subject to the lien and that was sent to the landlord by certified mail with return receipt
 33 requested within the preceding five years. The notice must identify the personal property by de-
 34 scribing the physical address of the property.

35 (5) The notice required under subsection (3) of this section must state that:

36 (a) The personal property left upon the premises is considered abandoned;

37 (b) The tenant or any lienholder must contact the landlord by a specified date, as provided in
 38 subsection (6) of this section, to arrange for the removal of the abandoned personal property;

39 (c) The personal property is stored on the rented space;

40 (d) The tenant or any lienholder, except as provided by subsection (18) of this section, may ar-
 41 range for removal of the personal property by contacting the landlord at a described telephone
 42 number or address on or before the specified date;

43 (e) The landlord shall make the personal property available for removal by the tenant or any
 44 lienholder, except as provided by subsection (18) of this section, by appointment at reasonable times;

45 (f) If the personal property is considered to be abandoned pursuant to subsection (2)(a) or (b)

1 of this section, the landlord may require payment of storage charges, as provided by subsection (7)(b)
2 of this section, prior to releasing the personal property to the tenant or any lienholder;

3 (g) If the personal property is considered to be abandoned pursuant to subsection (2)(c) of this
4 section, the landlord may not require payment of storage charges prior to releasing the personal
5 property;

6 (h) If the tenant or any lienholder fails to contact the landlord by the specified date or fails to
7 remove the personal property within 30 days after that contact, the landlord may sell or dispose of
8 the personal property. If the landlord reasonably believes the county assessor will determine that
9 the current market value of the personal property is \$8,000 or less, and the landlord intends to
10 dispose of the property if the property is not claimed, the notice shall state that belief and intent;
11 and

12 (i) If applicable, there is a lienholder that has a right to claim the personal property, except as
13 provided by subsection (18) of this section.

14 (6) For purposes of subsection (5) of this section, the specified date by which a tenant or
15 lienholder must contact a landlord to arrange for the disposition of abandoned personal property
16 must be not less than 45 days after personal delivery or mailing of the notice.

17 (7) After notifying the tenant as required by subsection (3) of this section, the landlord:

18 (a) Shall store the abandoned personal property of the tenant on the rented space and shall ex-
19 ercise reasonable care for the personal property; and

20 (b) Is entitled to reasonable or actual storage charges and costs incidental to storage or dis-
21 posal. The storage charge may be no greater than the monthly space rent last payable by the tenant.

22 (8) If a tenant or lienholder, upon the receipt of the notice provided by subsection (3) or (4) of
23 this section or otherwise, responds by actual notice to the landlord on or before the specified date
24 in the landlord's notice that the tenant or lienholder intends to remove the personal property from
25 the premises, the landlord must make that personal property available for removal by the tenant or
26 lienholder by appointment at reasonable times during the 30 days following the date of the response,
27 subject to subsection (18) of this section. If the personal property is considered to be abandoned
28 pursuant to subsection (2)(a) or (b) of this section, but not pursuant to subsection (2)(c) of this sec-
29 tion, the landlord may require payment of storage charges, as provided in subsection (7)(b) of this
30 section, prior to allowing the tenant or lienholder to remove the personal property. Acceptance by
31 a landlord of such payment does not operate to create or reinstate a tenancy or create a waiver
32 pursuant to ORS 90.412 or 90.417.

33 (9) Except as provided in subsections (18) to (20) of this section, if the tenant or lienholder does
34 not respond within the time provided by the landlord's notice, or the tenant or lienholder does not
35 remove the personal property within 30 days after responding to the landlord or by any date agreed
36 to with the landlord, whichever is later, the personal property is conclusively presumed to be
37 abandoned. The tenant and any lienholder that have been given notice pursuant to subsection (3)
38 or (4) of this section shall, except with regard to the distribution of sale proceeds pursuant to sub-
39 section (13) of this section, have no further right, title or interest to the personal property and may
40 not claim or sell the property.

41 (10) If the personal property is presumed to be abandoned under subsection (9) of this section,
42 the landlord then may:

43 (a) Sell the personal property at a public or private sale, provided that prior to the sale:

44 (A) The landlord may seek to transfer ownership of record of the personal property by comply-
45 ing with the requirements of the appropriate state agency; and

- 1 (B) The landlord shall:
- 2 (i) Place a notice in a newspaper of general circulation in the county in which the personal
3 property is located. The notice shall state:
- 4 (I) That the personal property is abandoned;
- 5 (II) The tenant's name;
- 6 (III) The address and any space number where the personal property is located, and any plate,
7 registration or other identification number for a floating home noted on the title, if actually known
8 to the landlord;
- 9 (IV) Whether the sale is by private bidding or public auction;
- 10 (V) Whether the landlord is accepting sealed bids and, if so, the last date on which bids will be
11 accepted; and
- 12 (VI) The name and telephone number of the person to contact to inspect the personal property;
- 13 (ii) At a reasonable time prior to the sale, give a copy of the notice required by sub-
14 subparagraph (i) of this subparagraph to the tenant and to any lienholder, by personal delivery or
15 first class mail, except that for any lienholder, mail service must be by first class mail with certif-
16 icate of mailing;
- 17 (iii) Obtain an affidavit of publication from the newspaper to show that the notice required un-
18 der sub-subparagraph (i) of this subparagraph ran in the newspaper at least one day in each of two
19 consecutive weeks prior to the date scheduled for the sale or the last date bids will be accepted;
20 and
- 21 (iv) Obtain written proof from the county that all property taxes and assessments on the per-
22 sonal property have been paid or, if not paid, that the county has authorized the sale, with the sale
23 proceeds to be distributed pursuant to subsection (13) of this section; or
- 24 (b) Destroy or otherwise dispose of the personal property if the landlord determines from the
25 county assessor that the current market value of the property is \$8,000 or less.
- 26 (11)(a) A public or private sale authorized by this section must be conducted consistent with the
27 terms listed in subsection (10)(a)(B)(i) of this section. Every aspect of the sale including the method,
28 manner, time, place and terms must be commercially reasonable.
- 29 (b) If there is no buyer at a sale described under paragraph (a) of this subsection, the personal
30 property is considered to be worth \$8,000 or less, regardless of current market value, and the land-
31 lord shall destroy or otherwise dispose of the personal property.
- 32 (12) Notwithstanding ORS 446.155 (1) and (2), unless a landlord intentionally misrepresents the
33 condition of personal property, the landlord is not liable for the condition of the personal property
34 to:
- 35 (a) A buyer of the personal property at a sale pursuant to subsection (10)(a) of this section, with
36 or without consideration; or
- 37 (b) A person or nonprofit organization to whom the landlord gives the personal property pursu-
38 ant to subsection (1)(b), (10)(b) or (11)(b) of this section.
- 39 (13)(a) The landlord may deduct from the proceeds of the sale:
- 40 (A) The reasonable or actual cost of notice, storage and sale; and
- 41 (B) Unpaid rent.
- 42 (b) After deducting the amounts listed in paragraph (a) of this subsection, the landlord shall
43 remit the remaining proceeds, if any, to the county tax collector to the extent of any unpaid prop-
44 erty taxes and assessments owed on the dwelling or home.
- 45 (c) After deducting the amounts listed in paragraphs (a) and (b) of this subsection, if applicable,

1 the landlord shall remit the remaining proceeds, if any, to any lienholder to the extent of any unpaid
2 balance owed on the lien on the personal property.

3 (d) After deducting the amounts listed in paragraphs (a), (b) and (c) of this subsection, if appli-
4 cable, the landlord shall remit to the tenant the remaining proceeds, if any, together with an item-
5 ized accounting.

6 (e) If the tenant cannot after due diligence be found, the landlord shall deposit the remaining
7 proceeds with the county treasurer of the county in which the sale occurred. If not claimed within
8 three years, the deposited proceeds revert to the general fund of the county and are available for
9 general purposes.

10 (14) The county tax collector shall cancel all unpaid property taxes and assessments as provided
11 under ORS 311.790 only under one of the following circumstances:

12 (a) The landlord disposes of the personal property after a determination described in subsection
13 (10)(b) of this section.

14 (b) There is no buyer of the personal property at a sale described under subsection (11) of this
15 section.

16 (c)(A) There is a buyer of the personal property at a sale described under subsection (11) of this
17 section;

18 (B) The current market value of the personal property is \$8,000 or less; and

19 (C) The proceeds of the sale are insufficient to satisfy the unpaid property taxes and assessments
20 owed on the personal property after distribution of the proceeds pursuant to subsection (13) of this
21 section.

22 (d)(A) The landlord buys the personal property at a sale described under subsection (11) of this
23 section;

24 (B) The current market value of the personal property is more than \$8,000;

25 (C) The proceeds of the sale are insufficient to satisfy the unpaid property taxes and assessments
26 owed on the personal property after distribution of the proceeds pursuant to subsection (13) of this
27 section; and

28 (D) The landlord disposes of the personal property.

29 (15) The landlord is not responsible for any loss to the tenant or lienholder resulting from
30 storage of personal property in compliance with this section unless the loss was caused by the
31 landlord's deliberate or negligent act. In the event of a deliberate and malicious violation, the
32 landlord is liable for twice the actual damages sustained by the tenant or lienholder.

33 (16) Complete compliance in good faith with this section shall constitute a complete defense in
34 any action brought by a tenant or lienholder against a landlord for loss or damage to such personal
35 property disposed of pursuant to this section.

36 (17) If a landlord does not comply with this section:

37 (a) The tenant is relieved of any liability for damage to the premises caused by conduct that
38 was not deliberate, intentional or grossly negligent and for unpaid rent and may recover from the
39 landlord up to twice the actual damages sustained by the tenant;

40 (b) A lienholder aggrieved by the noncompliance may recover from the landlord the actual
41 damages sustained by the lienholder. ORS 90.255 does not authorize an award of attorney fees to
42 the prevailing party in any action arising under this paragraph; and

43 (c) A county tax collector aggrieved by the noncompliance may recover from the landlord the
44 actual damages sustained by the tax collector, if the noncompliance is part of an effort by the
45 landlord to defraud the tax collector. ORS 90.255 does not authorize an award of attorney fees to

1 the prevailing party in any action arising under this paragraph.

2 (18) The provisions of this section regarding the rights and responsibilities of a tenant to the
3 abandoned personal property also apply to any lienholder, except that the lienholder may not sell
4 or remove the dwelling or home unless:

5 (a) The lienholder has foreclosed the lien on the manufactured dwelling or floating home;

6 (b) The tenant or a personal representative or designated person described in subsection (20)
7 of this section has waived all rights under this section pursuant to subsection (22) of this section;
8 or

9 (c) The notice and response periods provided by subsections (6) and (8) of this section have ex-
10 pired.

11 (19)(a) Except as provided by subsection (20)(d) and (e) of this section, if a lienholder makes a
12 timely response to a notice of abandoned personal property pursuant to subsections (6) and (8) of
13 this section and so requests, a landlord shall enter into a written storage agreement with the
14 lienholder providing that the personal property may not be sold or disposed of by the landlord for
15 up to 12 months. A storage agreement entitles the lienholder to store the personal property on the
16 previously rented space during the term of the agreement, but does not entitle anyone to occupy the
17 personal property.

18 (b) The lienholder's right to a storage agreement arises upon the failure of the tenant or, in the
19 case of a deceased tenant, the personal representative, designated person, heir or devisee to remove
20 or sell the dwelling or home within the allotted time.

21 (c) To exercise the right to a storage agreement under this subsection, in addition to contacting
22 the landlord with a timely response as described in paragraph (a) of this subsection, the lienholder
23 must enter into the proposed storage agreement within 60 days after the landlord gives a copy of
24 the agreement to the lienholder. The landlord shall give a copy of the proposed storage agreement
25 to the lienholder in the same manner as provided by subsection (4)(b) of this section. The landlord
26 may include a copy of the proposed storage agreement with the notice of abandoned property re-
27 quired by subsection (4) of this section. A lienholder enters into a storage agreement by signing a
28 copy of the agreement provided by the landlord and personally delivering or mailing the signed copy
29 to the landlord within the 60-day period.

30 (d) The storage agreement may require, in addition to other provisions agreed to by the landlord
31 and the lienholder, that:

32 (A) The lienholder make timely periodic payment of all storage charges, as described in sub-
33 section (7)(b) of this section, accruing from the commencement of the 45-day period described in
34 subsection (6) of this section. A storage charge may include a utility or service charge, as described
35 in ORS 90.532, if limited to charges for electricity, water, sewer service and natural gas and if in-
36 cidental to the storage of personal property. A storage charge may not be due more frequently than
37 monthly;

38 (B) The lienholder pay a late charge or fee for failure to pay a storage charge by the date re-
39 quired in the agreement, if the amount of the late charge is no greater than for late charges imposed
40 on facility tenants;

41 (C) The lienholder maintain the personal property and the space on which the personal property
42 is stored in a manner consistent with the rights and obligations described in the rental agreement
43 that the landlord currently provides to tenants as required by ORS 90.510 (4); and

44 (D) The lienholder repair any defects in the physical condition of the personal property that
45 existed prior to the lienholder entering into the storage agreement, if the defects and necessary re-

1 pairs are reasonably described in the storage agreement and, for homes that were first placed on
2 the space within the previous 24 months, the repairs are reasonably consistent with facility stan-
3 dards in effect at the time of placement. The lienholder shall have 90 days after entering into the
4 storage agreement to make the repairs. Failure to make the repairs within the allotted time consti-
5 tutes a violation of the storage agreement and the landlord may terminate the agreement by giving
6 at least 14 days' written notice to the lienholder stating facts sufficient to notify the lienholder of
7 the reason for termination. Unless the lienholder corrects the violation within the notice period, the
8 agreement terminates as provided and the landlord may sell or dispose of the property without fur-
9 ther notice to the lienholder.

10 (e) Notwithstanding subsection (7)(b) of this section, a landlord may increase the storage charge
11 if the increase is part of a facility-wide rent increase for all facility tenants, the increase is no
12 greater than the increase for other tenants and the landlord gives the lienholder written notice
13 consistent with the requirements of ORS 90.600 (1).

14 (f) During the term of an agreement described under this subsection, the lienholder has the right
15 to remove or sell the property, subject to the provisions of the lien. Selling the property includes a
16 sale to a purchaser who wishes to leave the property on the rented space and become a tenant,
17 subject to the provisions of ORS 90.680. The landlord may condition approval for occupancy of any
18 purchaser of the property upon payment of all unpaid storage charges and maintenance costs.

19 (g)(A) Except as provided in paragraph (d)(D) of this subsection, if the lienholder violates the
20 storage agreement, the landlord may terminate the agreement by giving at least 90 days' written
21 notice to the lienholder stating facts sufficient to notify the lienholder of the reason for the termi-
22 nation. Unless the lienholder corrects the violation within the notice period, the agreement termi-
23 nates as provided and the landlord may sell or dispose of the property without further notice to the
24 lienholder.

25 (B) After a landlord gives a termination notice pursuant to subparagraph (A) of this paragraph
26 for failure of the lienholder to pay a storage charge and the lienholder corrects the violation, if the
27 lienholder again violates the storage agreement by failing to pay a subsequent storage charge, the
28 landlord may terminate the agreement by giving at least 30 days' written notice to the lienholder
29 stating facts sufficient to notify the lienholder of the reason for termination. Unless the lienholder
30 corrects the violation within the notice period, the agreement terminates as provided and the land-
31 lord may sell or dispose of the property without further notice to the lienholder.

32 (C) A lienholder may terminate a storage agreement at any time upon at least 14 days' written
33 notice to the landlord and may remove the property from the facility if the lienholder has paid all
34 storage charges and other charges as provided in the agreement.

35 (h) Upon the failure of a lienholder to enter into a storage agreement as provided by this sub-
36 section or upon termination of an agreement, unless the parties otherwise agree or the lienholder
37 has sold or removed the property, the landlord may sell or dispose of the property pursuant to this
38 section without further notice to the lienholder.

39 (20) If the personal property is considered abandoned as a result of the death of a tenant who
40 was the only tenant, this section applies, except as follows:

41 (a) The provisions of this section regarding the rights and responsibilities of a tenant to the
42 abandoned personal property shall apply to any personal representative named in a will or appointed
43 by a court to act for the deceased tenant or any person designated in writing by the tenant to be
44 contacted by the landlord in the event of the tenant's death.

45 (b) The notice required by subsection (3) of this section must be:

1 (A) Sent by first class mail to the deceased tenant at the premises; and

2 (B) Personally delivered or sent by first class mail to any personal representative or designated
3 person if actually known to the landlord.

4 (c) The notice described in subsection (5) of this section must refer to any personal represen-
5 tative or designated person, instead of the deceased tenant, and must incorporate the provisions of
6 this subsection.

7 (d) If a personal representative, designated person or other person entitled to possession of the
8 property, such as an heir or devisee, responds by actual notice to a landlord within the 45-day period
9 provided by subsection (6) of this section and so requests, the landlord shall enter into a written
10 storage agreement with the representative or person providing that the personal property may not
11 be sold or disposed of by the landlord for up to 90 days or until conclusion of any probate pro-
12 ceedings, whichever is later. A storage agreement entitles the representative or person to store the
13 personal property on the previously rented space during the term of the agreement, but does not
14 entitle anyone to occupy the personal property. If such an agreement is entered, the landlord may
15 not enter a similar agreement with a lienholder pursuant to subsection (19) of this section until the
16 agreement with the personal representative or designated person ends.

17 (e) If a personal representative or other person requests that a landlord enter into a storage
18 agreement, subsection (19)(c) to (e) and (g)(C) of this section applies, with the representative or
19 person having the rights and responsibilities of a lienholder with regard to the storage agreement.

20 (f) During the term of an agreement described under paragraph (d) of this subsection, the rep-
21 resentative or person has the right to remove or sell the property, including a sale to a purchaser
22 or a transfer to an heir or devisee where the purchaser, heir or devisee wishes to leave the property
23 on the rented space and become a tenant, subject to the provisions of ORS 90.680. The landlord also
24 may condition approval for occupancy of any purchaser, heir or devisee of the property upon pay-
25 ment of all unpaid storage charges and maintenance costs.

26 (g) If the representative or person violates the storage agreement, the landlord may terminate
27 the agreement by giving at least 30 days' written notice to the representative or person stating facts
28 sufficient to notify the representative or person of the reason for the termination. Unless the rep-
29 resentative or person corrects the violation within the notice period, the agreement terminates as
30 provided and the landlord may sell or dispose of the property without further notice to the repre-
31 sentative or person.

32 (h) Upon the failure of a representative or person to enter into a storage agreement as provided
33 by this subsection or upon termination of an agreement, unless the parties otherwise agree or the
34 representative or person has sold or removed the property, the landlord may sell or dispose of the
35 property pursuant to this section without further notice to the representative or person.

36 (21) If a governmental agency determines that the condition of personal property abandoned
37 under this section constitutes an extreme health or safety hazard under state or local law and the
38 agency determines that the hazard endangers others in the facility and requires quick removal of
39 the property, the landlord may sell or dispose of the property pursuant to this subsection. The
40 landlord shall comply with all provisions of this section, except as follows:

41 (a) The date provided in subsection (6) of this section by which a tenant, lienholder, personal
42 representative or designated person must contact a landlord to arrange for the disposition of the
43 property must be not less than 15 days after personal delivery or mailing of the notice required by
44 subsection (3) of this section.

45 (b) The date provided in subsections (8) and (9) of this section by which a tenant, lienholder,

1 personal representative or designated person must remove the property must be not less than seven
2 days after the tenant, lienholder, personal representative or designated person contacts the landlord.

3 (c) The notice required by subsection (3) of this section must be as provided in subsection (5)
4 of this section, except that:

5 (A) The dates and deadlines in the notice for contacting the landlord and removing the property
6 must be consistent with this subsection;

7 (B) The notice must state that a governmental agency has determined that the property consti-
8 tutes an extreme health or safety hazard and must be removed quickly; and

9 (C) The landlord shall attach a copy of the agency's determination to the notice.

10 (d) If the tenant, a lienholder or a personal representative or designated person does not remove
11 the property within the time allowed, the landlord or a buyer at a sale by the landlord under sub-
12 section (11) of this section shall promptly remove the property from the facility.

13 (e) A landlord is not required to enter into a storage agreement with a lienholder, personal
14 representative or designated person pursuant to subsection (19) of this section.

15 (22)(a) A landlord may sell or dispose of a tenant's abandoned personal property without com-
16 plying with the provisions of this section if, after termination of the tenancy or no more than seven
17 days prior to the termination of the tenancy, the following parties so agree in a writing entered into
18 in good faith:

19 (A) The landlord;

20 (B) The tenant, or for an abandonment as the result of the death of a tenant who was the only
21 tenant, the personal representative, designated person or other person entitled to possession of the
22 personal property, such as an heir or devisee, as described in subsection (20) of this section; and

23 (C) Any lienholder.

24 (b) A landlord may not, as part of a rental agreement, as a condition to approving a sale of
25 property on rented space under ORS 90.680 or in any other manner, require a tenant, a personal
26 representative, a designated person or any lienholder to waive any right provided by this section.

27 (23) Until personal property is conclusively presumed to be abandoned under subsection (9) of
28 this section, a landlord does not have a lien pursuant to ORS 87.152 for storing the personal prop-
29 erty.

30 **SECTION 121.** ORS 153.096 is amended to read:

31 153.096. (1) In any proceeding for a violation under ORS 830.990 or 830.997, the court may con-
32 ditionally suspend all or part of any fine or penalty to be imposed on the defendant if the defendant
33 appears personally and agrees to complete at the defendant's own expense a Safe Boating Education
34 Course approved by the [*State Marine Board*] **State Parks and Recreation Department** under ORS
35 830.110 (18), within time limits imposed by the court.

36 (2) In any proceeding for a violation under ORS 830.990 or 830.997, the court shall notify the
37 [*State Marine Board*] **department** if the defendant fails to appear at any time as required by law
38 or the court, or fails to comply with any order of the court.

39 **SECTION 122.** ORS 153.111 is amended to read:

40 153.111. (1) Upon entry of a conviction for a traffic offense, the court shall forward to the De-
41 partment of Transportation an abstract of conviction in the manner required by ORS 810.375, and
42 a copy of the judgment, if required, under the provisions of ORS 810.375.

43 (2) Upon entry of a conviction for violation of any provision of the wildlife laws or commercial
44 fishing laws, or any rule [*promulgated*] **adopted** pursuant to those laws, the court that enters the
45 judgment of conviction shall forward to the Department of State Police an abstract of conviction.

1 (3) Upon entry of a conviction for a compulsory school attendance violation under ORS 339.925,
2 the court shall forward to the Department of Education an abstract of conviction.

3 (4) Upon entry of a conviction for violation of a weights and measures law subject to penalty
4 under ORS 618.991, the court shall forward to the State Department of Agriculture an abstract of
5 conviction.

6 (5) Upon entry of a conviction of a boating offense, as defined in ORS 830.005, the court shall
7 forward to the [*State Marine Board*] **State Parks and Recreation Department** an abstract of
8 conviction.

9 (6) A court may destroy any abstract not required to be forwarded to an agency under the
10 provisions of this section.

11 **SECTION 123.** ORS 182.535 is amended to read:

12 182.535. For purposes of ORS 182.535 to 182.550, “natural resource agency” means the Depart-
13 ment of Environmental Quality, the State Department of Agriculture, the Water Resources Depart-
14 ment, the State Department of Fish and Wildlife, the State Forestry Department, the Department
15 of State Lands, the Department of Education, the State Department of Geology and Mineral Indus-
16 tries, the Department of Land Conservation and Development, the [*State Marine Board*] **State Parks
17 and Recreation Department**, the Public Utility Commission, the Department of Transportation, the
18 State Fire Marshal and the Oregon Health Authority.

19 **SECTION 124.** ORS 244.050 is amended to read:

20 244.050. (1) On or before April 15 of each year the following persons shall file with the Oregon
21 Government Ethics Commission a verified statement of economic interest as required under this
22 chapter:

23 (a) The Governor, Secretary of State, State Treasurer, Attorney General, Commissioner of the
24 Bureau of Labor and Industries, Superintendent of Public Instruction, district attorneys and mem-
25 bers of the Legislative Assembly.

26 (b) Any judicial officer, including justices of the peace and municipal judges, except any pro tem
27 judicial officer who does not otherwise serve as a judicial officer.

28 (c) Any candidate for a public office designated in paragraph (a) or (b) of this subsection.

29 (d) The Deputy Attorney General.

30 (e) The Legislative Administrator, the Legislative Counsel, the Legislative Fiscal Officer, the
31 Secretary of the Senate and the Chief Clerk of the House of Representatives.

32 (f) The Chancellor and Vice Chancellors of the Oregon University System and the president and
33 vice presidents, or their administrative equivalents, in each institution under the jurisdiction of the
34 State Board of Higher Education.

35 (g) The following state officers:

36 (A) Adjutant General.

37 (B) Director of Agriculture.

38 (C) Manager of State Accident Insurance Fund Corporation.

39 (D) Water Resources Director.

40 (E) Director of Department of Environmental Quality.

41 (F) Director of Oregon Department of Administrative Services.

42 (G) State Fish and Wildlife Director.

43 (H) State Forester.

44 (I) State Geologist.

45 (J) Director of Human Services.

- 1 (K) Director of the Department of Consumer and Business Services.
 2 (L) Director of the Department of State Lands.
 3 (M) State Librarian.
 4 (N) Administrator of Oregon Liquor Control Commission.
 5 (O) Superintendent of State Police.
 6 (P) Director of the Public Employees Retirement System.
 7 (Q) Director of Department of Revenue.
 8 (R) Director of Transportation.
 9 (S) Public Utility Commissioner.
 10 (T) Director of Veterans' Affairs.
 11 (U) Executive director of Oregon Government Ethics Commission.
 12 (V) Director of the State Department of Energy.
 13 (W) Director and each assistant director of the Oregon State Lottery.
 14 (X) Director of the Department of Corrections.
 15 (Y) Director of the Oregon Department of Aviation.
 16 (Z) Executive director of the Oregon Criminal Justice Commission.
 17 (AA) Director of the Oregon Business Development Department.
 18 (BB) Director of the Office of Emergency Management.
 19 (CC) Director of the Employment Department.
 20 (DD) Chief of staff for the Governor.
 21 (EE) Administrator of the Office for Oregon Health Policy and Research.
 22 (FF) Director of the Housing and Community Services Department.
 23 (GG) State Court Administrator.
 24 (HH) Director of the Department of Land Conservation and Development.
 25 (II) Board chairperson of the Land Use Board of Appeals.
 26 [(JJ) *State Marine Director.*]
 27 [(KK)] (JJ) Executive director of the Oregon Racing Commission.
 28 [(LL)] (KK) State Parks and Recreation Director.
 29 [(MM)] (LL) Public defense services executive director.
 30 [(NN)] (MM) Chairperson of the Public Employees' Benefit Board.
 31 [(OO)] (NN) Director of the Department of Public Safety Standards and Training.
 32 [(PP)] (OO) Chairperson of the Oregon Student Assistance Commission.
 33 [(QQ)] (PP) Executive director of the Oregon Watershed Enhancement Board.
 34 [(RR)] (QQ) Director of the Oregon Youth Authority.
 35 [(SS)] (RR) Director of the Oregon Health Authority.
 36 (h) Any assistant in the Governor's office other than personal secretaries and clerical personnel.
 37 (i) Every elected city or county official.
 38 (j) Every member of a city or county planning, zoning or development commission.
 39 (k) The chief executive officer of a city or county who performs the duties of manager or prin-
 40 cipal administrator of the city or county.
 41 (L) Members of local government boundary commissions formed under ORS 199.410 to 199.519.
 42 (m) Every member of a governing body of a metropolitan service district and the executive of-
 43 ficer thereof.
 44 (n) Each member of the board of directors of the State Accident Insurance Fund Corporation.
 45 (o) The chief administrative officer and the financial officer of each common and union high

1 school district, education service district and community college district.

2 (p) Every member of the following state boards and commissions:

3 (A) Board of Geologic and Mineral Industries.

4 (B) Oregon Business Development Commission.

5 (C) State Board of Education.

6 (D) Environmental Quality Commission.

7 (E) Fish and Wildlife Commission of the State of Oregon.

8 (F) State Board of Forestry.

9 (G) Oregon Government Ethics Commission.

10 (H) Oregon Health Policy Board.

11 (I) State Board of Higher Education.

12 (J) Oregon Investment Council.

13 (K) Land Conservation and Development Commission.

14 (L) Oregon Liquor Control Commission.

15 (M) Oregon Short Term Fund Board.

16 [(N) *State Marine Board.*]

17 [(O)] (N) Mass transit district boards.

18 [(P)] (O) Energy Facility Siting Council.

19 [(Q)] (P) Board of Commissioners of the Port of Portland.

20 [(R)] (Q) Employment Relations Board.

21 [(S)] (R) Public Employees Retirement Board.

22 [(T)] (S) Oregon Racing Commission.

23 [(U)] (T) Oregon Transportation Commission.

24 [(V)] (U) Wage and Hour Commission.

25 [(W)] (V) Water Resources Commission.

26 [(X)] (W) Workers' Compensation Board.

27 [(Y)] (X) Oregon Facilities Authority.

28 [(Z)] (Y) Oregon State Lottery Commission.

29 [(AA)] (Z) Pacific Northwest Electric Power and Conservation Planning Council.

30 [(BB)] (AA) Columbia River Gorge Commission.

31 [(CC)] (BB) Oregon Health and Science University Board of Directors.

32 [(DD)] (CC) Capitol Planning Commission.

33 (q) The following officers of the State Treasurer:

34 (A) Chief Deputy State Treasurer.

35 (B) Chief of staff for the office of the State Treasurer.

36 (C) Director of the Investment Division.

37 (r) Every member of the board of commissioners of a port governed by ORS 777.005 to 777.725
38 or 777.915 to 777.953.

39 (s) Every member of the board of directors of an authority created under ORS 441.525 to 441.595.

40 (2) By April 15 next after the date an appointment takes effect, every appointed public official
41 on a board or commission listed in subsection (1) of this section shall file with the Oregon Govern-
42 ment Ethics Commission a statement of economic interest as required under ORS 244.060, 244.070
43 and 244.090.

44 (3) By April 15 next after the filing deadline for the primary election, each candidate described
45 in subsection (1) of this section shall file with the commission a statement of economic interest as

1 required under ORS 244.060, 244.070 and 244.090.

2 (4) Within 30 days after the filing deadline for the general election, each candidate described in
3 subsection (1) of this section who was not a candidate in the preceding primary election, or who
4 was nominated for public office described in subsection (1) of this section at the preceding primary
5 election by write-in votes, shall file with the commission a statement of economic interest as re-
6 quired under ORS 244.060, 244.070 and 244.090.

7 (5) Subsections (1) to (4) of this section apply only to persons who are incumbent, elected or
8 appointed public officials as of April 15 and to persons who are candidates on April 15. Subsections
9 (1) to (4) of this section also apply to persons who do not become candidates until 30 days after the
10 filing deadline for the statewide general election.

11 (6) If a statement required to be filed under this section has not been received by the commis-
12 sion within five days after the date the statement is due, the commission shall notify the public of-
13 ficial or candidate and give the public official or candidate not less than 15 days to comply with the
14 requirements of this section. If the public official or candidate fails to comply by the date set by the
15 commission, the commission may impose a civil penalty as provided in ORS 244.350.

16 **SECTION 125.** ORS 285A.615 is amended to read:

17 285A.615. (1) The Oregon Infrastructure Finance Authority shall provide managerial assistance
18 and technical referral services to ports.

19 (2) The authority shall disseminate such research and technical information as is available to
20 the authority.

21 (3) The authority shall work cooperatively with existing organizations and agencies that provide
22 research and technical services, including, but not limited to:

23 (a) The Department of State Lands;

24 (b) The [*State Marine Board*] **State Parks and Recreation Department**; and

25 (c) The Sea Grant College and marine extension services at Oregon State University.

26 **SECTION 126.** ORS 319.415 is amended to read:

27 319.415. (1) On or before July 15 of each year, the Oregon Department of Administrative Ser-
28 vices, after consultation with the Department of Transportation and the [*State Marine Board*] **State**
29 **Parks and Recreation Department**, shall determine the amount of the motor vehicle fuel tax im-
30 posed under ORS 319.010 to 319.430 during the preceding fiscal year with respect to fuel purchased
31 and used to operate or propel motor boats. The amount determined shall be reduced by the amount
32 of any refunds for motor boats used for commercial purposes actually paid during the preceding year
33 on account of ORS 319.280 (1)(a).

34 (2)(a) The Oregon Department of Administrative Services shall estimate the amount of fuel de-
35 scribed in subsection (1) of this section that is used to operate or propel motor boats by conducting
36 a statistically valid, unbiased, independent survey of boat owners. The survey shall be conducted
37 once every four years and shall be designed to estimate the average daily fuel consumption by motor
38 boats and the total days of motor boat use per year. The survey shall be used to determine the
39 amount of the transfer required by subsection (3) of this section for the first transfer that occurs
40 after the survey is completed. If the tax rate changes during the fiscal year, the amount of tax to
41 be transferred shall be prorated based on the percentage of total motor boat use taking place during
42 each tax period.

43 (b) In years when no survey is conducted, the amount to be transferred under subsection (3) of
44 this section shall be calculated by multiplying the per boat fuel consumption factors from the pre-
45 ceding survey by the number of motor boats as shown by the annual actual count of boat registra-

1 tions. The resulting amount, in gallons per year, shall be the basis for the determination of the
2 amount to be transferred.

3 (c) The survey required by paragraph (a) of this subsection shall be developed by a research
4 department within the Oregon University System, in consultation with the [*State Marine Board*]
5 **State Parks and Recreation Department** and the Department of Transportation. The Oregon De-
6 partment of Administrative Services shall contract for the development and conduct of the survey,
7 and the costs shall be paid by the Department of Transportation. Costs paid by the Department of
8 Transportation may be deducted from the amount transferred to the [*State Marine Board*] **State**
9 **Parks and Recreation Department** under subsection (3) of this section.

10 (3) The Oregon Department of Administrative Services shall certify the amount of the estimate
11 made under subsection (1) of this section, as reduced by refunds, to the Department of Transporta-
12 tion, to the [*State Marine Board*] **State Parks and Recreation Department** and to the State
13 Treasurer. Thereupon, that amount shall be transferred from the Department of Transportation
14 Driver and Motor Vehicle Suspense Account to the Boating Safety, Law Enforcement and Facility
15 Account created under ORS 830.140, and is continuously appropriated to the [*State Marine Board*]
16 **State Parks and Recreation Department** for the purposes for which the moneys in the Boating
17 Safety, Law Enforcement and Facility Account are appropriated.

18 **SECTION 127.** ORS 390.930 is amended to read:

19 390.930. As used in ORS 390.930 to 390.940:

20 (1) "Managing agencies" includes:

21 (a) State Parks and Recreation Department;

22 (b) State Department of Fish and Wildlife;

23 (c) Confederated Tribes of the Warm Springs Indian Reservation;

24 [(d) *State Marine Board*;]

25 [(e)] (d) Sherman, Wasco and Jefferson Counties;

26 [(f)] (e) Oregon State Police;

27 [(g)] (f) United States Bureau of Land Management;

28 [(h)] (g) United States Bureau of Indian Affairs; and

29 [(i)] (h) The City of Maupin.

30 (2) "Recreation area" means the Deschutes River Scenic Waterway Recreation Area created
31 under ORS 390.932.

32 **SECTION 128.** ORS 419A.260 is amended to read:

33 419A.260. (1) As used in this section and ORS 419A.262:

34 (a) "Contact" means any instance in which a person's act or behavior, or alleged act or behav-
35 ior, which could result in a juvenile court's assumption of jurisdiction under ORS 419B.100 (1)(a) to
36 (c) and (f) or 419C.005 comes to the attention of an agency specified in paragraph (d) of this sub-
37 section.

38 (b) "Expunction" means:

39 (A) The removal and destruction or sealing of a judgment or order related to a contact and all
40 records and references; and

41 (B) Where a record is kept by the Department of Human Services or the Oregon Youth Au-
42 thority, either the sealing of such record by the department or the Oregon Youth Authority or, in
43 a multiperson file, the affixing to the front of the file, by the department or the youth authority, a
44 stamp or statement identifying the name of the individual, the date of expunction and instruction
45 that no further reference shall be made to the material that is subject to the expunction order ex-

1 cept upon an order of a court of competent jurisdiction.

2 (c) "Person" includes a person under 18 years of age.

3 (d) "Record" includes a fingerprint or photograph file, report, exhibit or other material which
4 contains information relating to a person's contact with any law enforcement agency or juvenile
5 court or juvenile department and is kept manually, through the use of electronic data processing
6 equipment, or by any other means by a law enforcement or public investigative agency, a juvenile
7 court or juvenile department or an agency of the State of Oregon. "Record" does not include:

8 (A) A transcript of a student's Youth Corrections Education Program academic record;

9 (B) Material on file with a public agency [*which*] **that** is necessary for obtaining federal finan-
10 cial participation regarding financial assistance or services on behalf of a person who has had a
11 contact;

12 (C) Records kept or disseminated by the Department of Transportation, [*State Marine Board*]
13 **State Parks and Recreation Department** and State Fish and Wildlife Commission pursuant to ju-
14 venile or adult order or recommendation;

15 (D) Police and court records related to an order of waiver where the matter is still pending in
16 the adult court or on appeal therefrom, or to any disposition as an adult pursuant to such order;

17 (E) Records related to a support obligation;

18 (F) Medical records;

19 (G) Records of a proposed or adjudicated termination of parental rights and adoptions;

20 (H) Any law enforcement record of a person who currently does not qualify for expunction or
21 of current investigations or cases waived to the adult court;

22 (I) Records and case reports of the Oregon Supreme Court and the Oregon Court of Appeals;

23 (J) Any records in cases under ORS 419C.005 in which a juvenile court found a person to be
24 within the jurisdiction of the court based upon the person's commission of an act [*which*] **that** if
25 done by an adult would constitute one of the following offenses:

26 (i) Aggravated murder under ORS 163.095;

27 (ii) Murder under ORS 163.115;

28 (iii) Attempt, solicitation or conspiracy to commit murder or aggravated murder;

29 (iv) Manslaughter in the first degree under ORS 163.118;

30 (v) Manslaughter in the second degree under ORS 163.125;

31 (vi) Criminally negligent homicide under ORS 163.145;

32 (vii) Assault in the first degree under ORS 163.185;

33 (viii) Criminal mistreatment in the first degree under ORS 163.205;

34 (ix) Kidnapping in the first degree under ORS 163.235;

35 (x) Rape in the third degree under ORS 163.355;

36 (xi) Rape in the second degree under ORS 163.365;

37 (xii) Rape in the first degree under ORS 163.375;

38 (xiii) Sodomy in the third degree under ORS 163.385;

39 (xiv) Sodomy in the second degree under ORS 163.395;

40 (xv) Sodomy in the first degree under ORS 163.405;

41 (xvi) Unlawful sexual penetration in the second degree under ORS 163.408;

42 (xvii) Unlawful sexual penetration in the first degree under ORS 163.411;

43 (xviii) Sexual abuse in the third degree under ORS 163.415;

44 (xix) Sexual abuse in the second degree under ORS 163.425;

45 (xx) Sexual abuse in the first degree under ORS 163.427;

- 1 (xxi) Promoting prostitution under ORS 167.012;
- 2 (xxii) Compelling prostitution under ORS 167.017;
- 3 (xxiii) Aggravated driving while suspended or revoked under ORS 163.196;
- 4 (xxiv) Aggravated vehicular homicide under ORS 163.149; or
- 5 (xxv) An attempt to commit a crime listed in this subparagraph other than manslaughter in the
- 6 second degree and criminally negligent homicide;

7 (K) Blood samples, buccal samples and other physical evidence and identification information
 8 obtained, stored or maintained by the Department of State Police under authority of ORS 137.076,
 9 181.085 or 419C.473; or

10 (L) Records maintained in the Law Enforcement Data System under ORS 181.592.

11 (e) "Termination" means:

12 (A) For a person who is the subject of a record kept by a juvenile court or juvenile department,
 13 the final disposition of a case by informal means, by a decision not to place the person on probation
 14 or make the person a ward of the court after the person has been found to be within the court's
 15 jurisdiction, or by a discontinuance of probation or of the court's wardship.

16 (B) For a person who is the subject of a record kept by a law enforcement or public investi-
 17 gative agency, a juvenile court or juvenile department or an agency of the State of Oregon, the final
 18 disposition of the person's most recent contact with a law enforcement agency.

19 (2) The juvenile court or juvenile department shall make reasonable effort to provide written
 20 notice to a child who is within the court's jurisdiction under ORS 419B.100 (1)(a) to (c) and (f) or
 21 to a youth who is within the court's jurisdiction under ORS 419C.005, and to the child's or youth's
 22 parent, of the procedures for expunction of a record, the right to counsel under this chapter, the
 23 legal effect of an expunction order and the procedures for seeking relief from the duty to report as
 24 a sex offender provided under ORS 181.823, at the following times:

- 25 (a) At any dispositional hearing or at the time of entering into a formal accountability agree-
 26 ment;
- 27 (b) At the time of termination;
- 28 (c) Upon notice to the subject of an expunction pending pursuant to application of a juvenile
 29 department or motion on a juvenile court; and
- 30 (d) At the time of notice of execution of an expunction order.

31 **SECTION 129.** ORS 466.915 is amended to read:

32 466.915. The Department of Environmental Quality may enter into a memorandum of under-
 33 standing with the [*State Marine Board*] **State Parks and Recreation Department** or the Depart-
 34 ment of Transportation that provides for the [*State Marine Board*] **State Parks and Recreation**
 35 **Department** or the Department of Transportation to manage essential services grants awarded to
 36 eligible ports, as determined by the Department of Environmental Quality under ORS 466.903 and
 37 466.905.

38 **SECTION 130.** ORS 466.920 is amended to read:

39 466.920. Notwithstanding ORS 830.150 (2)(a), in distributing funds under ORS 830.150 (1), the
 40 [*State Marine Board*] **State Parks and Recreation Department** shall give priority to any applicant
 41 who applies for funds to cover those costs of upgrading or replacing fuel tanks that exceed the
 42 amount of a grant awarded to the applicant under ORS 466.903 and 466.905. In order to receive
 43 priority under this section, the applicant shall:

- 44 (1) Otherwise meet eligibility requirements for receipt of funds distributed under ORS 830.150;
- 45 and

(2) Be a recipient of a grant under ORS 466.903 and 466.905.

SECTION 131. ORS 541.420 is amended to read:

541.420. (1) The Oregon Watershed Enhancement Board shall, by January 15 of each odd-numbered year, submit a report to the Governor and to the appropriate committee or committees of the Legislative Assembly that assesses the implementation and effectiveness of the Oregon Plan in the state. The report shall address each drainage basin in the state and shall include, but need not be limited to:

(a) A status report on watershed and key habitat conditions in the drainage basin based on available information;

(b) An assessment of data and information needs deemed critical to monitoring and evaluating watershed and habitat enhancement programs and efforts;

(c) An overview of state agency programs addressing watershed conditions;

(d) An overview of voluntary restoration activities addressing watershed conditions;

(e) A summary of investments made by the board from funds received under section 4b, Article XV of the Oregon Constitution, and all other sources; and

(f) The recommendations of the board for enhancing the effectiveness of Oregon Plan implementation in each drainage basin.

(2) In order to provide the board with the information necessary to complete the report described in subsection (1) of this section, each natural resources agency shall provide information requested by the board in the format and at the times determined by the board.

(3) For purposes of this section, “natural resources agency” includes:

(a) Department of Environmental Quality;

(b) State Department of Agriculture;

(c) State Department of Fish and Wildlife;

(d) State Forestry Department;

(e) Department of State Lands;

(f) Water Resources Department;

(g) Department of Land Conservation and Development;

(h) State Department of Geology and Mineral Industries;

(i) Oregon Watershed Enhancement Board;

(j) Fish and Wildlife Division of the Department of State Police;

(k) Department of Transportation;

(L) State Parks and Recreation Department;

(m) Oregon Business Development Department; **and**

[(n) State Marine Board; and]

[(o)] (n) Any other state agency that is required to manage, allocate or protect natural resources, either as the primary responsibility of the agency or in conjunction with the primary responsibilities of the agency.

(4) In addition to the report specified under subsection (1) of this section, the Oregon Watershed Enhancement Board shall report regularly during the interim on the implementation of the Oregon Plan to the appropriate legislative committee.

SECTION 132. ORS 570.855 is amended to read:

570.855. (1) The State Department of Fish and Wildlife, the *[State Marine Board]* **State Parks and Recreation Department** and the State Department of Agriculture are authorized to:

(a) Operate check stations for the purpose of inspecting recreational or commercial watercraft

1 for the presence of aquatic invasive species.

2 (b) Decontaminate, or recommend decontamination of, any recreational or commercial
3 watercraft that is inspected at a check station operated under authority of this section.

4 (2) All check stations operated under authority of this section must be plainly marked by signs
5 that comply with all state and federal laws and must be staffed by at least one uniformed employee
6 of the State Department of Fish and Wildlife, the [*State Marine Board*] **State Parks and Recreation**
7 **Department** or the State Department of Agriculture trained in inspection and decontamination of
8 recreational or commercial watercraft.

9 **SECTION 133.** ORS 570.860 is amended to read:

10 570.860. (1) The State Department of Fish and Wildlife, after consultation with the [*State Marine*
11 *Board*] **State Parks and Recreation Department**, the State Department of Agriculture and the
12 Department of State Police, shall report biennially to the Legislative Assembly on efforts to prevent
13 aquatic invasive species from entering this state and may include in the report suggested legislation
14 necessary to more effectively prevent aquatic invasive species from entering this state.

15 (2) Reports to the Legislative Assembly required under this section must be made in accordance
16 with ORS 192.245.

17 **SECTION 134.** ORS 830.105, 830.120, 830.125, 830.130 and 830.135 are repealed.

18 **SECTION 135.** This 2011 Act being necessary for the immediate preservation of the public
19 peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect
20 on its passage.

21 _____