



Oregon

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TO: House Committee on Transportation and Economic Development

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SUBJECT: Senate Bill 408-A

INTRODUCTION

Senate Bill 408-A makes changes to Oregon's access management laws, further clarifying how existing unpermitted approaches are addressed as well as how decisions affecting private access will be made as part of state highway projects.

BACKGROUND

Senate Bill 1024 (2010) directed the Oregon Department of Transportation (ODOT), in cooperation with stakeholders, to develop proposed legislation to codify, clarify and bring consistency to issuance of access permits (permits for driveways onto state highways) based on objective standards and to establish less stringent access management rules, mitigation measures and spacing and mobility standards for highway segments on which the annual average amount of daily traffic is 5,000 vehicles or fewer.

ODOT has worked with stakeholders to make significant changes to the rules that the Department uses to permit approaches to the state highway. These changes culminated into Senate Bill (SB) 264, passed by the 2011 Legislative Assembly. The Oregon Transportation Commission adopted permanent administrative rules to implement SB 264 in June 2012. The changes reflected a major paradigm shift in how the Department balances traffic safety & operations with the importance of facilitating opportunities for economic development and job creation in our communities.

SB 264 also established an Access Management Oversight Task Force to oversee and monitor the department's implementation of SB 264, to propose additional legislation as necessary, and to report annually to the interim legislative committees on transportation with its findings and recommendations.

The report identified three priority areas for access management legislation in 2013: existing unpermitted accesses (accesses without written permission), access management in interchange area management plans, and access management within the context of project delivery.

WHAT THE BILL DOES

SB 408-A deals with the process by which access decisions are managed in three priority areas:

- Unpermitted approaches
- Highway planning projects
- Highway construction projects

In addition, SB 408-A includes provisions to address opportunities for the applicant to resolve disputes as part of planning or construction projects that identify the need to modify, relocate, or close existing private connections to the state highway.

Existing unpermitted accesses

The task force's discussion related to existing unpermitted accesses focused on how to create a "presumptive" legal status that would be equivalent to written permission. SB 408-A clarifies how to manage the potentially large number of existing unpermitted private accesses to state highways that exist today by presuming they have written permission from the department as required by ORS 374. This enables the department and the landowner to treat existing connections as if they are virtually permitted, and the burden would be on ODOT to show where available documentation does not support this presumption.

Examples include accesses that:

- Existed prior to 1949 when the state began to manage accesses
- Were built before the department established statewide standards for issuing permits
- Were built by the department as part of highway improvement projects

Access management as part of planning projects

Senate Bill 408-A clarifies the process by which ODOT will engage local governments and abutting property owners to address how decisions affecting access to state highways would occur as part of facility plans. For facility plans that identify the need to modify, relocate, or close existing private connections, the bill requires the plan to include the strategy and methodology for how access will be managed in a level of detail necessary to achieve the scope of the facility plan.

Access management within the context of project delivery

SB 408-A also clarifies the process for ODOT to engage local governments and abutting property owners when the Access Management Strategy describes how each existing connection to the highway will be treated as part of specific highway improvement projects.

ODOT will adopt Oregon Administrative Rules as needed to implement SB 408-A.

SUMMARY

The department has worked with stakeholders and the Access Management Oversight Task Force on SB 408-A to address unpermitted approaches to state highways, and access management in terms of highway planning and highway improvement projects.