

Dear Representatives:

February 16, 2013

Please vote yes to support HB2841-1 and add my comments to the public record.

HB2841-1 will provide more authority to ORS517.125 some state agencies do not consider when Rule making is being considered or Orders are implemented.

ORS517.125 was put in law with SB1152 during the 70<sup>th</sup> Oregon Legislative Assembly 1999. Since that time many of the Oregon state agencies have not complied with this law.

To circumvent this statute some agencies like Oregon Department Environmental Quality use Orders instead of Rules to by pass this statute when issuing new Industrial Permits known as National Pollution Discharge Elimination System permits. (NPDES)

ODEQ 700 NPDES EPA suction dredge permits being issued are for industrial point source discharges and do not pertain to suction dredging. The NPDES permits include extremely excessive fines for our Deminimus suction dredge sediment discharges that does not add anything into the water that is not already there.

HB2841-1 will finally put some teeth into the consultation statute when such restrictive permits are issued by ODEQ or other State agencies. Miners will appreciate all your legislative support to help correct this deficiency.

Tom Quintal

1718 Sonya DR. SE

Salem, Oregon 97317

Enrolled

Senate Bill

1152

Sponsored by COMMITTEE ON AGRICULTURE  
AND NATURAL RESOURCES (at  
the request of Oregon Independent  
Miners)

CHAPTER

.....

AN ACT

Relating to small scale mining; and  
declaring an emergency.

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

SECTION 1. { + As used in sections 1  
to 6 of this 1999 Act:

(1) 'Mining' means the removal of  
gold, silver or other  
precious minerals from aggregate or a  
vein of ore.

(2) 'Mining claim' means a portion of  
the public lands claimed  
for the valuable minerals occurring in  
those lands and for which  
the mineral rights are obtained under  
federal law or a right that  
is recognized by the United States  
Bureau of Land Management and  
given an identification number.

(3) 'Prospecting' means to search or  
explore, using motorized  
or nonmotorized methods, for samples of  
gold, silver or other  
precious minerals from among small  
quantities of aggregate or  
ore.

(4) 'Recreational mining' means  
mining in a manner that is  
consistent with a hobby or casual use,  
including use on public  
lands set aside or withdrawn from  
mineral entry for the purpose  
of recreational mining, or using pans,  
sluices, rocker boxes,  
other nonmotorized equipment and  
dredges with motors of 16  
horsepower or less and a suction nozzle  
of four inches or less in  
diameter.

(5) 'Small scale mining' means mining  
on a valid federal mining  
claim operating under a notice of  
intent or plan of operations  
while using whatever equipment is  
necessary, as approved by the  
notice of intent or plan of operations,  
to locate, remove and  
improve the claim. + }

SECTION 2. { + The Legislative  
Assembly finds that  
prospecting, small scale mining and  
recreational mining:

(1) Are important parts of the  
heritage of the State of Oregon;

(2) Provide economic benefits to the  
state and local  
communities; and

(3) Can be conducted in a manner that  
is not harmful and may be  
beneficial to fish habitat and fish  
propagation. + }

SECTION 3. { + Any rule pertaining  
to recreational or small  
scale mining adopted after the  
effective date of this 1999 Act  
shall be adopted in consultation with  
affected parties. + }

SECTION 4. { + A person may not  
attempt to restrict access to  
any open mining area or valid mining  
claim or to harass or  
interfere in any way with a person  
engaged in lawful mining  
activities. + }

SECTION 5. { + (1) As used in this  
section:

Enrolled Senate Bill 1152 (SB 1152-A)  
Page 1

(a) 'Bedrock sluice' means a wood or  
metal flume or trough that  
is permanently attached to the bedrock  
of the creek and is  
equipped with transverse riffles across  
the bottom of the unit  
and used to recover heavy mineral  
sands.

(b) 'Deface' includes but is not  
limited to altering, pulling  
down, damaging or destroying.

(c) 'Dredge' means a subsurface hose  
from 1.5 to 10 inches in  
diameter that is powered by an engine  
and is used to draw up  
auriferous material that is then  
separated in the sluice portion  
of the unit.

(d) 'Flume' means a trough used to convey water.

(e) 'Quartz mill' means a facility for processing ores or gravel.

(f) 'Rocker box' means a unit constructed of a short trough attached to curved supports that allow the unit to be rocked from side to side.

(g) 'Sluice box' means a portable unit constructed of a wood or metal flume or trough equipped with transverse riffles across the bottom of the unit and that is used to recover heavy mineral sands.

(2) A person commits the crime of mineral trespass if the person intentionally and without the permission of the claim holder:

(a) Enters a mining claim posted as required in ORS 517.010 or 517.044 and disturbs, removes or attempts to remove any mineral from the claim site;

(b) Tampers with or disturbs a flume, rocker box, bedrock sluice, sluice box, dredge, quartz mill or other mining equipment at a posted mining claim; or

(c) Defaces a location stake, side post, corner post, landmark, monument or posted written notice within a posted mining claim.

(3) Mineral trespass is a Class C misdemeanor. + }

SECTION 6. { + (1) As used in this section, 'lawful mining operation' means any small scale mining operation that is in full compliance with state and federal laws.

(2) A person commits the crime of interfering with a mining operation if the person intentionally:

(a) Interferes with a lawful mining operation; or

(b) Stops, or causes to be stopped, a lawful mining operation.

(3) Interfering with a mining operation is a Class C misdemeanor. + }

SECTION 7. { + (1) Sections 4 to 6 of this 1999 Act do not apply to conduct that would otherwise constitute an offense when it is required or authorized by law or judicial decree or is

performed by a public servant in the reasonable exercise of official powers, duties or functions.

(2) As used in subsection (1) of this section, 'laws or judicial decrees' includes but is not limited to:

(a) Laws defining duties and functions of public servants;

(b) Laws defining duties of private citizens to assist public servants in the performance of certain of their functions; and

(c) Judgments and orders of courts. + }

SECTION 8. { + This 1999 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 1999 Act takes effect on its passage. + }

Enrolled Senate Bill 1152 (SB 1152-A)  
Page 2

Passed by Senate May 19, 1999

.....  
.....

Secretary of Senate

.....  
.....

President of Senate

Passed by House June 4, 1999

.....  
.....

Speaker of House