

Enrolled House Bill 2202

Sponsored by Representative CLEM (at the request of Oregon Farm Bureau) (Presession filed.)

CHAPTER

AN ACT

Relating to mining on land zoned for exclusive farm use; appropriating money; and declaring an emergency.

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

SECTION 1. (1) The Legislative Assembly finds that:

(a) The extraction of aggregate, other minerals and other subsurface resources is an essential contribution to Oregon’s economic well-being.

(b) Oregon has an economic and social interest in locating and providing affordable aggregate, other minerals and other subsurface resources in close proximity to the end user of the materials.

(c) Oregon has an interest in balancing competing land use demands for lands identified as farmlands or forestlands in a manner that protects the economic viability of mining and other resource uses.

(d) To balance competing resource uses, Oregon has an interest in providing significant volumes of high-quality aggregate, other minerals and other subsurface resources that are critical to building Oregon’s communities and infrastructure while preserving farmland for agricultural production.

(2) The Legislative Assembly declares that:

(a) High-value farmland composed predominantly of Class I and Class II soils in the Willamette Valley should not be available for mining unless there is a significant volume of high-quality aggregate and other minerals and other subsurface resources available for extraction.

(b) State agencies and local governments should balance competing resource uses and not restrict the removal of the full depth of aggregate unless public health and safety concerns necessitate the restriction of mining activity.

SECTION 2. Section 3 of this 2013 Act is added to and made a part of ORS 517.750 to 517.901.

SECTION 3. (1) As used in this section, “significant aggregate resource” means the average minimum depth of aggregate, determined by rule of the Land Conservation and Development Commission, that is required for a local government to find that the aggregate resource is significant pursuant to a statewide land use planning goal that protects natural resources and conserves scenic, historic and open space resources.

(2) When the State Department of Geology and Mineral Industries issues an operating permit under ORS 517.790 for mining aggregate on high-value farm land composed predominantly of Class I and Class II soils in the Willamette Valley, the department shall require:

(a) An operator or owner to excavate substantially all of the significant aggregate resource within the operating permit boundary, not including any buffer, setback and sloping areas:

(A) To the extent that the removal of the significant aggregate resource can be done in a manner that is consistent with operating permit conditions imposed by the department; and

(B) Subject to limitations imposed by other federal, state or local regulatory requirements.

(b) An applicant to demonstrate to the satisfaction of the department that the operator or owner has the mechanical ability to comply with paragraph (a) of this subsection.

(c) Performance of the requirements of paragraph (a) of this subsection before approving final reclamation and closure of the mining operation, unless:

(A) The operator or owner defaults as described in ORS 517.860; or

(B) Performance is not required due to changed conditions or new information that justify a permit modification under ORS 517.831.

(3) The acceptance by the department of a plan to mine in compliance with subsection (2)(a) of this section does not establish a depth standard for purposes of land use permits or authorizations.

(4) The time limitations imposed on the department under ORS 517.830 do not apply to an application for an operating permit, or the transfer of a permit under ORS 517.833, that is subject to this section.

(5) This section does not require the operator or owner to provide bond or security to excavate to the permitted depth.

SECTION 4. In addition to and not in lieu of any other appropriation, there is appropriated to the Department of Land Conservation and Development, for the biennium beginning July 1, 2013, out of the General Fund, the amount of \$35,000 for the purpose of carrying out the provisions of sections 1 and 3 of this 2013 Act.

SECTION 5. Section 3 of this 2013 Act applies to an application that is submitted on or after the operative date specified in section 6 of this 2013 Act for an exploration permit under ORS 517.705, an operating permit under ORS 517.790 or a necessary land use permit or authorization.

SECTION 6. Sections 1, 3 and 5 of this 2013 Act become operative January 1, 2014.

SECTION 7. This 2013 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect July 1, 2013.

Passed by House July 6, 2013

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Ramona J. Line, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate July 7, 2013

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Peter Courtney, President of Senate

Received by Governor:

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Approved:

.....M,....., 2013

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2013

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Kate Brown, Secretary of State