

**B-Engrossed**  
**House Bill 2202**

Ordered by the House July 5  
Including House Amendments dated April 25 and July 5

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

**SUMMARY**

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

*[Prohibits conditional approval of mining permits for mining of tracts of land in Willamette Valley that are zoned for exclusive farm use and include five acres or more composed of Class I and Class II soils. Creates exceptions.]*

**States policy regarding balancing natural resource uses on certain high-value farmland in Willamette Valley.**

**Requires State Department of Geology and Mineral Industries to require operator or owner of aggregate mine to excavate substantially all of significant aggregate resource.**

**Appropriates moneys from General Fund to Department of Land Conservation and Development for purposes of carrying out Act.**

**Declares emergency, effective July 1, 2013.**

**A BILL FOR AN ACT**

1  
2 Relating to mining on land zoned for exclusive farm use; appropriating money; and declaring an  
3 emergency.

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

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

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

8 **(b) Oregon has an economic and social interest in locating and providing affordable ag-**  
9 **gregate, other minerals and other subsurface resources in close proximity to the end user**  
10 **of the materials.**

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

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

18 **(2) The Legislative Assembly declares that:**

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

23 **(b) State agencies and local governments should balance competing resource uses and**

**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 not restrict the removal of the full depth of aggregate unless public health and safety con-  
2 cerns necessitate the restriction of mining activity.

3 **SECTION 2.** Section 3 of this 2013 Act is added to and made a part of ORS 517.750 to  
4 517.901.

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

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

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

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

19 (B) Subject to limitations imposed by other federal, state or local regulatory require-  
20 ments.

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

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

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

26 (B) Performance is not required due to changed conditions or new information that jus-  
27 tify a permit modification under ORS 517.831.

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

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

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

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

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

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

45 **SECTION 7.** This 2013 Act being necessary for the immediate preservation of the public

1 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**  
2 **July 1, 2013.**

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