

Senate Bill 408

Sponsored by Senator JOHNSON (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 **as introduced**.

Grants written permission by Department of Transportation for existing unpermitted approach roads under certain circumstances. Provides that written permission qualifies as approach permit.

Requires property owner that has approach permit to be responsible for cost and performance of maintaining approach road.

A BILL FOR AN ACT

1
2 Relating to highway access management; creating new provisions; and amending ORS 374.313,
3 374.335 and 374.345.

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

5 **SECTION 1. Sections 2 and 3 of this 2013 Act are added to and made a part of ORS 374.302**
6 **to 374.330.**

7 **SECTION 2. (1) An owner of real property abutting a state highway with an existing ap-**
8 **proach road has the Department of Transportation's written permission for the approach**
9 **road if documentation for a highway project completed by the department shows that the**
10 **approach road was built or rebuilt as part of the project or that the department intended to**
11 **issue an approach permit to the property owner for the approach road.**

12 **(2) An owner of real property abutting a state highway with an approach road that was**
13 **in existence before April 1, 2000, is presumed to have the department's written permission**
14 **for the approach road if there is documentation in any form that shows:**

15 **(a) That the approach road also was in existence before July 16, 1949;**

16 **(b) That the approach road also was in existence before the department accepted juris-**
17 **isdiction of the highway from a city or county; or**

18 **(c) That the approach road was built or rebuilt with the department's knowledge or per-**
19 **mission.**

20 **(3) Subsections (1) and (2) of this section apply only where there is a right of access to**
21 **the state highway.**

22 **(4) For approach roads granted written permission under this section, the determination**
23 **of prior use for the purposes of ORS 374.312 (4) and (5) is the use of the property on the ef-**
24 **fective date of this 2013 Act.**

25 **(5) The department may rebut the presumption under subsection (2) of this section by a**
26 **showing that there is insufficient documentation to determine whether the approach road**
27 **was built or rebuilt with the department's permission.**

28 **(6) Except as provided in this section, an approach road built without the department's**
29 **written permission is subject to closure as provided in ORS 374.307.**

30 **(7) For purposes of this section and ORS 374.305 and 374.307 and section 3 of this 2013**

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 **Act, written permission granted by the department for an approach road is deemed to be an**
 2 **approach permit issued by the department under ORS 374.310.**

3 **SECTION 3. An owner of real property abutting a state highway with an existing ap-**
 4 **proach road that is presumed to have written permission under section 2 of this 2013 Act or**
 5 **that has an approach permit under ORS 374.310 is responsible for the cost and performance**
 6 **of maintaining the approach road, in accordance with the Department of Transportation's**
 7 **requirements, from the outermost edge of the highway pavement, shoulder or curb line to**
 8 **the right-of-way line, and shall maintain all portions of the approach road on the owner's**
 9 **property.**

10 **SECTION 4.** ORS 374.313 is amended to read:

11 374.313. (1) If the Department of Transportation closes an approach road for which a permit was
 12 issued under ORS 374.310 **or section 2 of this 2013 Act** or that was allowed by law prior to
 13 enactment of statutory permit requirements for approach roads, or if the department denies an ap-
 14 plication for an approach road permit submitted pursuant to a grant or reservation of access con-
 15 tained in a contract, condemnation judgment or recorded deed, and the closure or denial is not the
 16 result of conditions contained in a contract, condemnation judgment, recorded deed or permit, a
 17 person holding an interest in the real property benefited by the access or proposed access may file
 18 a claim for relief as a contested case under ORS 183.415 to 183.500.

19 (2) Prior to issuing a final order in a contested case under subsection (1) of this section, the
 20 Director of Transportation may provide the opportunity for the parties to participate in mediation
 21 consistent with the applicable provisions of ORS 36.185 to 36.210. In any alternative dispute resolu-
 22 tion proceeding, the director may authorize administrative remedies, including monetary damages
 23 or other relief, as determined by the department by rule, to address issues related to real property
 24 value, utility or use.

25 (3) In any proceeding under this section, any party may cause an appraisal of the subject prop-
 26 erty to be conducted. If the difference in value between a property owner's claim and an offer of
 27 monetary compensation by the department is less than \$30,000, the director shall provide a simpli-
 28 fied procedure for resolving the claim. The cost of conducting an appraisal may be shared by the
 29 parties when a mutually acceptable appraiser can be identified.

30 **SECTION 5.** ORS 374.335 is amended to read:

31 374.335. Where any private road crosses or is crossed by a public highway, the *[driving]* **oper-**
 32 **ation** of a motor vehicle across the public highway or upon the public highway for a distance of not
 33 *[to exceed]* **more than** 1,200 feet in the use of the private road is not subject to ORS 811.450, 815.155,
 34 815.160, 815.170, 818.020, 818.060, 818.090, 818.110, 818.160, 818.300, 818.320, 818.340, 818.350, 818.400
 35 and ORS chapter 825, provided such vehicle or vehicle use is:

36 (1) Subject to a permit issued pursuant to ORS 374.309 or 374.310 *[or a person authorized by such*
 37 *permittee]* **or section 2 of this 2013 Act, or such vehicle or vehicle use is authorized by the**
 38 **owner of the property subject to the permit; or**

39 (2) A farm tractor or implement of husbandry.

40 **SECTION 6.** ORS 374.345 is amended to read:

41 374.345. The Department of Transportation shall adopt rules regulating the procedures and cir-
 42 cumstances under which the department may restrict turning movements onto a state highway from
 43 an approach road for which a permit was issued under ORS 374.310 **or section 2 of this 2013 Act**
 44 when the restriction is not required by contract, condemnation judgment, recorded deed or permit.