

# Senate Bill 184

Sponsored by Senator BOQUIST (at the request of Tom Quintal representing Willamette Valley Mining Association, Thom Seal, Ph.D., PE - SB 838 Work Group member, Scott Atkinson - NorthWest Mineral Prospectors, Jan Alexander - Eastern Oregon Mining Association) (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**.

Repeals moratorium on certain mining using any form of motorized equipment. Replaces moratorium with certain conditions on mining using any form of motorized equipment. Punishes intentional violation of conditions by maximum fine of \$500. Specifies that conditions become applicable January 2, 2016.

Directs Department of Environmental Quality to study certain issues related to mining using motorized equipment and to report to appropriate legislative committee by September 15, 2016. Establishes surcharge on certain permits.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to mining; creating new provisions; amending ORS 468B.052, 517.123 and 517.140 and sec-  
3 tion 13, chapter 783, Oregon Laws 2013; repealing sections 2, 3 and 4, chapter 783, Oregon Laws  
4 2013; and declaring an emergency.

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

6 **SECTION 1.** ORS 517.140 is amended to read:

7 517.140. The Legislative Assembly finds that:

8 (1) Prospecting, small scale mining and recreational mining are part of the unique heritage of  
9 the State of Oregon.

10 (2) Prospecting, small scale mining and recreational mining provide economic benefits to the  
11 State of Oregon and local communities and support tourism, small businesses and recreational op-  
12 portunities, all of which are economic drivers in Oregon's rural communities.

13 (3) Exploration of potential mine sites is necessary to discover the minerals that underlie the  
14 surface and inherently involves natural resource disturbance.

15 (4) *[Mining that uses motorized equipment in the beds and banks of the rivers of Oregon can pose*  
16 *significant risks to]* **The best available science has shown that mining that uses motorized**  
17 **equipment in the beds and banks of the streams and rivers of Oregon, when done in a re-**  
18 **sponsible manner that follows best management practices and is in compliance with all re-**  
19 **quired permits, does not harm or pose a significant risk to Oregon's natural resources,**  
20 including fish and other wildlife, riparian areas, water quality, the investments of this state in  
21 habitat enhancement *[and]* **or** areas of cultural significance to Indian tribes.

22 *[(5) Between 2007 and 2013, mining that uses motorized equipment in the beds and banks of the*  
23 *rivers of Oregon increased significantly, raising concerns about the cumulative environmental*  
24 *impacts.]*

25 **(5) In 2014, mining that uses motorized equipment in the beds and banks of streams and**  
26 **rivers of Oregon decreased significantly due to the passage of chapter 783, Oregon Laws 2013.**

27 (6) The regulatory system related to mining that uses motorized equipment in the beds 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 banks of the rivers of Oregon should be efficient and structured to best protect environmental val-  
 2 ues.

3 **SECTION 2.** Sections 2, 3 and 4, chapter 783, Oregon Laws 2013, are repealed.

4 **SECTION 3.** (1) Mining that uses any form of motorized equipment for the purpose of  
 5 extracting gold, silver or any other precious metal from placer deposits in the beds or banks  
 6 of the waters of this state, as defined in ORS 196.800, shall not remove or disturb streamside  
 7 vegetation in a manner that may cause a significant or measurable impact to water quality,  
 8 and is subject to the following:

9 (a) No more than two motorized suction dredges may work within any 300-foot stretch  
 10 of stream or river segment, measured from the location of the upstream dredge, unless the  
 11 Department of Environmental Quality determines, using the best available science, that an-  
 12 other distance is appropriate to protect water quality.

13 (b) The motorized equipment may be operated only during daylight hours unless as oth-  
 14 erwise provided for by the department.

15 (2) The provisions of subsection (1) of this section apply to mining that occurs up to the  
 16 line of ordinary high water, as defined in ORS 274.005, of the full length of any river and  
 17 tributary thereof in this state, of which any portion contains essential indigenous  
 18 anadromous salmonid habitat, as defined in ORS 196.810, or naturally reproducing popu-  
 19 lations of bull trout.

20 (3) The provisions of subsection (1) of this section do not apply to:

21 (a) Any mining for which the State Department of Geology and Mineral Industries issues  
 22 an operating permit under ORS 517.702 to 517.989; and

23 (b) Any mining for which an approved notice of intent or plan of operations has been is-  
 24 sued by the United States Forest Service or the Bureau of Land Management.

25 (4) Intentional violation of any provision of this section is a Class C violation.

26 **SECTION 4.** Section 3 of this 2015 Act applies to mining conducted on or after January  
 27 2, 2016.

28 **SECTION 5.** (1) The Department of Environmental Quality, in consultation with the De-  
 29 partment of State Lands, the State Parks and Recreation Department, the State Department  
 30 of Fish and Wildlife, the State Department of Geology and Mineral Industries, the Oregon  
 31 State Police and other relevant state agencies, the federal government, county governments,  
 32 the federally recognized Indian tribes in Oregon and affected stakeholders, shall study mat-  
 33 ters related to mining that uses any form of motorized equipment for the purpose of ex-  
 34 tracting gold, silver or any other precious metal from placer deposits in the beds or banks  
 35 of the waters of this state, as defined in ORS 196.800, or from other placer deposits, and  
 36 matters related to the removal or disturbance of streamside vegetation resulting from the  
 37 mining activities, and shall propose a revised state regulatory framework that includes, but  
 38 is not limited to:

39 (a) A consolidated regulatory process for mining described in this section, including a  
 40 system that:

41 (A) Involves permits, licenses, authorizations or other forms of permission that must be  
 42 displayed in plain view and be clearly visible on the motorized equipment in order to aid in  
 43 the identification of persons carrying out mining activities; and

44 (B) Considers a single permit or a single point of contact approach to authorization.

45 (b) Effective compliance, monitoring and enforcement mechanisms related to mining de-

1 scribed in this section.

2 (c) Adequate fee structures to cover administration, compliance, monitoring, enforce-  
3 ment, outreach and education related to any permit, license, authorization or other form of  
4 permission required by law from a state agency for mining described in this section or for  
5 discharges from mining described in this section, including ways to maximize efficiency in  
6 the use of existing state resources.

7 (d) Conditions for, and restrictions on, mining described in this section, to the extent  
8 allowed by law and based on the best available science and the expertise and comments of  
9 county governments and the public, designed to:

10 (A) Protect and recover in-stream and riparian habitat that is important to achieve wa-  
11 ter quality standards and the conservation and recovery of indigenous anadromous  
12 salmonids, as defined in ORS 196.810, and naturally reproducing populations of bull trout; and

13 (B) Address social considerations, including concerns related to the economic effects of  
14 mining on rural communities and the state, the living heritage of generations of miners in  
15 Oregon, safety, noise, navigation, cultural resources and other uses of waterways.

16 (e) The establishment of a system of regional management zones, to the extent allowed  
17 by law, that:

18 (A) Limits, either by lottery or by other mechanism, the amount of mining activity that  
19 uses motorized equipment in the regional management zones at specific times and cumula-  
20 tively over time periods;

21 (B) Requires the payment of a fee, as part of the fee structures described in paragraph  
22 (c) of this subsection, for mining described in this section in the regional management zones;  
23 and

24 (C) Establishes specific conditions and restrictions, as described in paragraph (d) of this  
25 subsection, for the respective regional management zones.

26 (f)(A) The establishment by rule of conditions and restrictions on mining described in this  
27 section that serve to preserve the living heritage of mining in Oregon and boost Oregon's  
28 rural economy while placing appropriate limitations on mining, to the extent allowed by local  
29 zoning or ordinances and other applicable laws, and that shall be specific to areas of land  
30 categorized as follows:

31 (i) Bodies of water within federally designated wilderness areas, national monuments and  
32 national botanical areas;

33 (ii) Scenic waterways in this state designated under ORS 390.826 and bodies of water  
34 flowing through state parks;

35 (iii) Bodies of water within lands for which the mineral rights are obtained and mining  
36 is regulated under federal law;

37 (iv) Bodies of water within nonfederal lands; and

38 (v) Habitat that is essential to the recovery and conservation of salmon, steelhead,  
39 lamprey, freshwater mollusks or other unique habitat values, unless protection for this  
40 habitat may be otherwise achieved pursuant to paragraphs (d) and (e) of this subsection.

41 (2) Proposed rules under subsection (1)(f)(A) of this section must be reasonable, neces-  
42 sary and based on the best available peer reviewed science, and be designed to balance the  
43 effect of the rules on the state's environmental, economic, social and historic resources in  
44 a manner that, to the greatest extent possible, protects all affected resources from unnec-  
45 essary or unreasonable harm.

1       **(3) The Department of Environmental Quality shall submit a report with the results of**  
 2 **the proposed regulatory framework, and shall include recommendations for any necessary**  
 3 **legislation and funding, to the interim committees of the Legislative Assembly related to**  
 4 **environment and natural resources or other appropriate legislative committee on or before**  
 5 **September 15, 2016. The department may also include any recommendations for proposed**  
 6 **rules related to the revised regulatory framework in the report.**

7       **SECTION 6. Section 5 of this 2015 Act is repealed on January 2, 2017.**

8       **SECTION 7. ORS 517.123 is amended to read:**

9       517.123. The Legislative Assembly finds that prospecting, small scale mining and recreational  
 10 mining:

11       (1) Are important parts of the heritage of the State of Oregon; [*and*]

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

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

15       **SECTION 8. ORS 468B.052 is amended to read:**

16       468B.052. (1) Unless the Environmental Quality Commission, as provided in ORS 468.065, estab-  
 17 lishes different fees for permits issued under ORS 468B.050, a person who operates a suction dredge  
 18 having a suction hose with an inside diameter of eight inches or less shall, upon application for or  
 19 renewal of a permit issued under ORS 468B.050, pay to the Department of Environmental Quality:

20       (a) For an individual permit:

21       (A) A one-time application fee of [~~\$300~~] **\$100**; and

22       (B) An annual renewal fee of \$25.

23       (b) For a general permit, either:

24       (A) A \$25 annual fee for each year the person registers under the general permit; [*or*]

25       (B) A \$100 fee for a five-year registration under the general permit[.]; **or**

26       **(C) No fee, or a minimal fee, for a registration authorizing a person to operate a suction**  
 27 **dredge for a two-week period in certain areas that may be designated by the commission by**  
 28 **rule, offered at the discretion of the commission and renewable annually.**

29       (2)(a) In addition to the fees described in subsection (1) of this section, by rule the commission  
 30 may establish an additional fee for a permit issued under ORS 468B.050 for a person to operate a  
 31 suction dredge described in this section. The fee must be adequate to cover the costs of adminis-  
 32 tration, compliance, monitoring and enforcement related to the permit.

33       (b) After a fee is established by the commission pursuant to this subsection, the fee is subject  
 34 to the limitations on increases imposed by ORS 468B.051.

35       **SECTION 9. In addition to the fees described in ORS 468B.052, from January 1, 2016, to**  
 36 **December 31, 2017, a surcharge of \$50 is imposed on any permits issued under ORS 468B.050**  
 37 **for a person who operates a suction dredge as described in ORS 468B.052. The surcharge**  
 38 **must be used to fund data collection, research and reporting on suction dredge mining in**  
 39 **Oregon by the Department of Environmental Quality. The data and research referred to in**  
 40 **this section includes, but is not limited to, data on the locations and number of suction**  
 41 **dredge operations, the types and sizes of suction dredges, physical impacts from suction**  
 42 **dredge mining and review of the best available science related to suction dredge mining.**  
 43 **Amounts collected as surcharges under this section shall be deposited in the Suction Dredge**  
 44 **Study Fund established under section 13, chapter 783, Oregon Laws 2013.**

45       **SECTION 10. Section 13, chapter 783, Oregon Laws 2013 is amended to read:**

1       **Sec. 13.** The Suction Dredge Study Fund is established in the State Treasury, separate and  
2 distinct from the General Fund. Interest earned by the Suction Dredge Study Fund shall be credited  
3 to the fund. Moneys in the fund are continuously appropriated to the Department of Environmental  
4 Quality to carry out the duties of the department described in section 12 [*of this 2013 Act*], **chapter**  
5 **783, Oregon Laws 2013, and section 9 of this 2015 Act.**

6       **SECTION 11.** **This 2015 Act being necessary for the immediate preservation of the public**  
7 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**  
8 **on its passage.**

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