

## SENATE AMENDMENTS TO SENATE BILL 830

By COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

April 27

1 On page 1 of the printed bill, line 2, after “ORS” delete the rest of the line and delete line 3  
2 and insert “830.589 and 830.998 and sections 5 and 7, chapter 783, Oregon Laws 2013; repealing ORS  
3 468B.052 and sections 2, 3, 4, 12 and 13, chapter 783, Oregon Laws 2013; and declaring an emer-  
4 gency.”.

5 Delete lines 5 through 23 and delete pages 2 through 6 and insert:  
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### “REPEAL OF MORATORIUM ON CERTAIN MINING OPERATIONS

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9 “SECTION 1. Sections 2, 3 and 4, chapter 783, Oregon Laws 2013, are repealed.  
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### “CONSOLIDATED PERMITTING PROGRAM FOR MOTORIZED IN-STREAM PLACER MINING AND MOTORIZED UPLAND PLACER MINING

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15 “SECTION 2. As used in sections 2 to 11 of this 2015 Act:

16 “(1) ‘Biological resource habitat’ means essential indigenous anadromous salmonid  
17 habitat and habitat that is essential to the recovery and conservation of pacific lamprey, bull  
18 trout and freshwater mollusks.

19 “(2) ‘Line of ordinary high water’ has the meaning given that term in ORS 274.005.

20 “(3) ‘Motorized in-stream placer mining’ means mining using any form of motorized  
21 equipment, including but not limited to the use of a motorized suction dredge, for the pur-  
22 pose of extracting gold, silver or any other precious metal from placer deposits of the beds  
23 or banks of the waters of the state.

24 “(4) ‘Motorized upland placer mining’ means:

25 “(a) Mining that uses any form of motorized equipment for the purpose of extracting  
26 gold, silver or any other precious metal from placer deposits located between the line of or-  
27 dinary high water and 100 yards upland perpendicular to the line of ordinary high water of  
28 the length of any waters of the state; and

29 “(b) Any activity related to mining described in paragraph (a) of this subsection, includ-  
30 ing the establishment of camps or access routes, that takes place in a location that is be-  
31 tween the line of ordinary high water and 100 yards upland perpendicular to the line of  
32 ordinary high water of the length of any waters of the state.

33 “(5) ‘Operator’ means any person that is engaged in motorized in-stream placer mining  
34 operations or motorized upland placer mining operations.

35 “(6) ‘Waters of the state’ has the meaning given that term in ORS 468B.005.

1       **“SECTION 3. (1) An operator may not engage in motorized in-stream placer mining or**  
2 **motorized upland placer mining in any location without holding or being covered by a valid**  
3 **operating permit for that location that is issued by Department of Environmental Quality.**  
4 **Separate permit coverage is required for each separate motorized mining operation. An op-**  
5 **erator seeking an operating permit or permit coverage from the department shall submit an**  
6 **application by completing an online application form developed by the department by rule and**  
7 **available on the department’s website that contains the following information:**

8       **“(a) The name and address of the operator;**

9       **“(b) The global positioning system coordinates for where the motorized in-stream placer**  
10 **mining or motorized upland placer mining operation is proposed to occur;**

11       **“(c) Information on how the mining location will be accessed by the operator;**

12       **“(d) An affirmation by the operator that the operator has reviewed information available**  
13 **as part of the online application process related to cultural resource preservation and best**  
14 **management practices for motorized in-stream placer mining and motorized upland placer**  
15 **mining; and**

16       **“(e) Any other information that the department requires by rule to be included in the**  
17 **application.**

18       **“(2) The department may authorize motorized in-stream placer mining and motorized**  
19 **upland placer mining under a general operating permit or an individual operating permit.**

20       **“(3) The department may refuse to issue an operating permit or grant permit coverage**  
21 **to an operator who:**

22       **“(a) Has not, in the determination of the department, substantially complied with the**  
23 **conditions of an operating permit, the provisions of this section or section 4 or 6 of this 2015**  
24 **Act or the rules adopted by the department to carry out the purposes of this section or**  
25 **section 4 or 6 of this 2015 Act; or**

26       **“(b) Has been convicted of a violation of any provision of this section or section 4 or 6**  
27 **of this 2015 Act or any rule, order or permit adopted or issued under this section or section**  
28 **4 or 6 of this 2015 Act.**

29       **“SECTION 4. (1) The Environmental Quality Commission, in consultation with the De-**  
30 **partment of State Lands, the State Historic Preservation Officer, and federally recognized**  
31 **Indian tribes in Oregon, shall adopt by rule a program for the authorization by permit of**  
32 **motorized in-stream placer mining and motorized upland placer mining in this state, as de-**  
33 **scribed in section 3 of this 2015 Act.**

34       **“(2) Rules adopted under this section must:**

35       **“(a) Provide for the Department of Environmental Quality to serve as the single point**  
36 **of contact for operators with relation to the permitting of mining described in this section;**

37       **“(b) Include an application review process that allows for the Department of State Lands,**  
38 **the State Historic Preservation Officer, federally recognized Indian tribes in Oregon and any**  
39 **other state and federal agencies with an interest in or statutory responsibility related to**  
40 **mining described in this section to have adequate authority and no longer than 30 working**  
41 **days within which to make recommendations to the Department of Environmental Quality**  
42 **regarding permit conditions or whether to approve or deny a permit for motorized in-stream**  
43 **placer mining or motorized upland placer mining;**

44       **“(c) Include criteria for the issuance of permits by the Department of Environmental**  
45 **Quality that are consistent with all applicable federal, state and local laws; and**

1       “(d) Limit the combined total number of permits of any type described in section 3 of this  
2 2015 Act to no more than 850 annually.

3       “(3) The commission shall adopt by rule conditions that may be applied to permits as  
4 necessary to:

5       “(a) Limit the amount of removal or fill activity in waters of the state and the amount  
6 of removal or disturbance of streamside vegetation that may occur under the permit;

7       “(b) Prohibit the movement of rock or large woody debris, as defined in ORS 196.800, if  
8 the rock or large woody debris could not physically be moved by a person without the aid  
9 of another person or tools;

10       “(c) Ensure that permits are displayed in plain view and clearly visible on or near mo-  
11 torized equipment in order to aid in the identification of operators;

12       “(d) Prevent or mitigate social conflict due to the noise caused by, or the proximity of,  
13 mining described in this section to residences, campgrounds, parks or other areas where  
14 social conflict could reasonably be expected to occur;

15       “(e) Ensure that motorized in-stream placer mining equipment is operated at a distance  
16 from other motorized equipment that is safe for the operators and protective of water qual-  
17 ity;

18       “(f) Protect cultural resources and high value natural resources;

19       “(g) Protect drinking water;

20       “(h) Require operators to keep daily activity logs of information related to the location  
21 and extent of mining that may be reportable to the department;

22       “(i) Require operators to stop and submit to an inspection at an aquatic invasive species  
23 check station as provided under ORS 830.589 while transporting motorized in-stream placer  
24 mining equipment; and

25       “(j) Require motorized in-stream placer mining operators to secure equipment that is not  
26 in use in a manner that:

27       “(A) Does not prevent or obstruct navigation within the beds or banks of waters of the  
28 state; and

29       “(B) Ensures the removal of hazardous materials from the equipment while it is unat-  
30 tended.

31       “(4) Rules adopted under this section may include the establishment of a system of  
32 management zones, to the extent allowed by law, that are designed to address conditions  
33 unique to the management zone through:

34       “(a) The establishment of caps on the total number of permits for motorized in-stream  
35 placer mining and motorized upland placer mining that may occur in a management zone;

36       “(b) Notwithstanding subsection (3) of this section, the establishment of conditions that  
37 may be applied to permits issued under this section that are in addition to, or in lieu of, the  
38 requirements under subsection (3) of this section and that are specific to the management  
39 zone; and

40       “(c) Research, monitoring, compliance and enforcement efforts that are specific to the  
41 management zone.

42       “(5) Rules adopted under this section:

43       “(a) May allow for adaptive management;

44       “(b) Must be based on the precautionary principle as informed by best available science;  
45 and

1       “(c) Must incorporate effective best management practices.

2       “**SECTION 5.** (1) The Department of State Lands and the Department of Environmental  
3       Quality shall enter into a memorandum of agreement concerning motorized in-stream placer  
4       mining and motorized upland placer mining with respect to the operating permit program  
5       established under sections 2 to 11 of this 2015 Act, water quality programs administered by  
6       the Department of Environmental Quality under ORS chapter 468B and the issuance of per-  
7       mits under the provisions of ORS 196.600 to 196.905.

8       “(2) The memorandum described in subsection (1) of this section may assign sole re-  
9       sponsibility for permitting to the Department of Environmental Quality when the motorized  
10      in-stream placer mining or motorized upland placer mining would otherwise be under the  
11      permitting jurisdiction of both the Department of State Lands and the Department of Envi-  
12      ronmental Quality.

13      “(3) In addition to a memorandum entered into under subsection (1) of this section, the  
14      Department of Environmental Quality and any other state agencies imposing requirements  
15      on motorized in-stream placer mining or motorized upland placer mining may enter into  
16      agreements for the department to act on behalf of the agencies in informing operators of the  
17      requirements and overseeing enforcement of the requirements.

18      “(4) Nothing in this section shall be interpreted as authorizing the Department of Envi-  
19      ronmental Quality to issue a permit for motorized in-stream placer mining or motorized  
20      upland placer mining without first meeting the review and consultation requirements  
21      adopted by the department by rule under section 4 (2) of this 2015 Act.

22      “**SECTION 6.** (1) In order to protect important natural resources, and in addition to the  
23      prohibition against placer mining in scenic waterways under ORS 390.835, no motorized in-  
24      stream placer mining may be permitted to occur directly in the banks of the waters of the  
25      state or up to the line of ordinary high water in the beds of segments of waters of the state  
26      that are:

27      “(a) Designated biological resource habitat. ‘Biological resource habitat’ as defined under  
28      section 2 of this 2015 Act shall be further defined and designated by rule by the Department  
29      of State Lands in consultation with the State Department of Fish and Wildlife and in con-  
30      sultation with other affected parties.

31      “(b) Waters listed as water quality impaired under the Federal Water Pollution Control  
32      Act (P.L. 92-500, as amended) for sediment, turbidity, toxics or heavy metals that are asso-  
33      ciated with sediments.

34      “(c) Waters flowing through a state park.

35      “(d) Waters flowing through or wholly contained within a federally designated wilderness  
36      area or wilderness study area, national monument, Botanical Special Interest Area as des-  
37      ignated by the United States Forest Service or an area of critical environmental concern  
38      designated by the Bureau of Land Management.

39      “(e) Waters flowing through public land set aside or withdrawn from mineral entry, un-  
40      less the land is set aside or withdrawn for the purpose of recreational mining.

41      “(f) Unless specifically authorized by the appropriate Indian tribe pursuant to the appli-  
42      cation review process provided for by rules adopted under section 4 of this 2015 Act:

43      “(A) Waters forming the boundaries of an Indian reservation; or

44      “(B) Waters flowing through or wholly contained within an Indian reservation, tribal  
45      trust lands or property that is owned exclusively by an Indian tribe or an entity wholly

1 owned by an Indian tribe.

2 “(g) Waters flowing through a waterway for which \$100,000 or more of state funds have  
3 been spent on restoration, as documented by the Oregon Watershed Enhancement Board.

4 “(2) Subject to the provisions of subsection (1)(a) and (b) of this section, motorized in-  
5 stream placer mining may be permitted only under an individual operating permit, as pro-  
6 vided in section 3 of this 2015 Act, if the mining is to occur directly in the banks of the  
7 waters of the state or up to the line of ordinary high water in the beds of waters of the state  
8 that are within watersheds containing:

9 “(a) Designated biological resource habitat; or

10 “(b) Waters listed as water quality impaired under the Federal Water Pollution Control  
11 Act (P.L. 92-500, as amended) for sediment, turbidity, toxics or heavy metals that are asso-  
12 ciated with sediments.

13 “(3) In order to protect important natural resources, no motorized upland placer mining  
14 may be permitted to occur on land that is between the line of ordinary high water and 100  
15 yards upland perpendicular to the line of ordinary high water of the full length of any seg-  
16 ment of waters of the state that are:

17 “(a) Designated biological resource habitat, as that term is defined under section 2 of this  
18 2015 Act and subsection (1) of this section, unless protection for the habitat may be other-  
19 wise achieved through the issuance of an individual operating permit subject to the condi-  
20 tions adopted by rule under section 4 of this 2015 Act.

21 “(b) Scenic waterways in this state designated under ORS 390.826 and bodies of water  
22 flowing through state parks.

23 “(c) Waters flowing through or wholly contained within a federally designated wilderness  
24 area or wilderness study area, national monument, Botanical Special Interest Area as des-  
25 ignated by the United States Forest Service or an area of critical environmental concern  
26 designated by the Bureau of Land Management.

27 “(d) Waters flowing through public land set aside or withdrawn from mineral entry, un-  
28 less the land is set aside or withdrawn for the purpose of recreational mining.

29 “(e) Unless specifically authorized by the appropriate Indian tribe pursuant to the appli-  
30 cation review process provided for by rules adopted under section 4 of this 2015 Act:

31 “(A) Waters forming the boundaries of an Indian reservation; or

32 “(B) Waters flowing through or wholly contained within an Indian reservation, tribal  
33 trust lands or property that is owned exclusively by an Indian tribe or an entity wholly  
34 owned by an Indian tribe.

35 “(f) Waters listed as water quality impaired under the Federal Water Pollution Control  
36 Act (P.L. 92-500, as amended) for sediment, turbidity, toxics or heavy metals that are asso-  
37 ciated with sediments.

38 “**SECTION 7.** Any person who violates any provision of section 3, 4 or 6 of this 2015 Act  
39 or any rule, order or permit adopted or issued under section 3, 4 or 6 of this 2015 Act shall  
40 be subject to a civil penalty in an amount to be determined by the Department of Environ-  
41 mental Quality of not more than \$1,000 per day of violation.

42 “**SECTION 8.** Violation of any provisions of section 3, 4 or 6 of this 2015 Act, or any rule,  
43 order or permit adopted or issued under section 3, 4 or 6 of this 2015 Act is a Class A vio-  
44 lation.

45 “**SECTION 9.** Sections 2 to 8 of this 2015 Act do not apply to any mining for which the

1 State Department of Geology and Mineral Industries issues an operating permit under ORS  
2 517.702 to 517.989.

3 “**SECTION 10.** The Department of Environmental Quality shall annually convene a team  
4 of representatives of each of the parties listed in section 4 (1) of this 2015 Act to review the  
5 effectiveness of the program adopted under section 4 of this 2015 Act. The department shall  
6 submit a report with the team’s findings, that may include recommendations for legislation,  
7 to the Legislative Assembly in the manner provided in ORS 192.245 on or before February 1  
8 of each odd-numbered year.

9 “**SECTION 11.** The Environmental Quality Commission may establish by rule a schedule  
10 of fees for operating permits under sections 3 and 4 of this 2015 Act. The fees may be set in  
11 amounts sufficient to recover the costs of administering the program.

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13 “CONFORMING AMENDMENTS  
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15 “**SECTION 12.** ORS 830.589 is amended to read:

16 “830.589. (1) The State Department of Fish and Wildlife, the State Marine Board or the State  
17 Department of Agriculture may require a person transporting a recreational or commercial  
18 watercraft, **or a piece of motorized equipment used for motorized in-stream placer mining as**  
19 **defined in section 2 of this 2015 Act**, to stop at a check station to inspect the watercraft **or piece**  
20 **of motorized equipment** for the presence of aquatic invasive species. The purpose of the admin-  
21 istrative search authorized under this section is to prevent and limit the spread of aquatic invasive  
22 species within Oregon.

23 “(2) The State Department of Fish and Wildlife, the State Marine Board or the State Department  
24 of Agriculture may decontaminate, or recommend decontamination of, any recreational or commer-  
25 cial watercraft **or piece of motorized equipment** that the agency inspects at a check station op-  
26 erated under authority of this section.

27 “(3) All check stations operated under authority of this section must be plainly marked by signs  
28 that comply with all state and federal laws and must be staffed by at least one uniformed employee  
29 of the State Department of Fish and Wildlife, the State Marine Board or the State Department of  
30 Agriculture trained in inspection and decontamination of recreational or commercial watercraft **and**  
31 **motorized equipment**.

32 “(4) An agency that operates a check station under this section shall require all persons trans-  
33 porting recreational or commercial watercraft **or pieces of motorized equipment** to stop at the  
34 check station, and the agency shall inspect every recreational or commercial watercraft **and piece**  
35 **of motorized equipment** that goes through the check station.

36 “(5) Notwithstanding ORS 496.992, a person transporting a recreational or commercial  
37 watercraft **or piece of motorized equipment** who stops at a check station for inspection and who  
38 cooperates in the decontamination process is not subject to criminal sanctions for possessing or  
39 transporting aquatic invasive species.

40 “(6) The State Department of Fish and Wildlife, the State Marine Board and the State Depart-  
41 ment of Agriculture may adopt rules to carry out the provisions of this section.

42 “**SECTION 13.** ORS 830.998 is amended to read:

43 “830.998. (1) A person who is transporting a recreational or commercial watercraft, **or piece**  
44 **of motorized equipment used for motorized in-stream placer mining as defined in section 2**  
45 **of this 2015 Act**, and fails to stop and submit to an inspection at an aquatic invasive species check

1 station operated by the State Department of Fish and Wildlife, the State Marine Board or the State  
2 Department of Agriculture as provided under ORS 830.589 commits a Class D violation.

3 “(2) Notwithstanding ORS 153.042, an enforcement officer may issue a citation under subsection  
4 (1) of this section when the conduct alleged to constitute a violation has not taken place in the  
5 presence of the enforcement officer, if the enforcement officer has reasonable grounds to believe that  
6 the conduct constitutes a violation on the basis of information received from an employee of an  
7 agency authorized to operate an aquatic invasive species check station who observed the violation.  
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11 **“MISCELLANEOUS**

12 **“SECTION 14. Sections 2 to 11 of this 2015 Act are added to and made a part of ORS**  
13 **chapter 468B.**

14 **“SECTION 15.** Section 7, chapter 783, Oregon Laws 2013, is amended to read:

15 **“Sec. 7.** (1) Sections 5 and 6, **chapter 783, Oregon Laws 2013**, [of this 2013 Act] are repealed  
16 on January 2, [2016] **2017**.

17 “(2) The repeal of sections 5 and 6, **chapter 783, Oregon Laws 2013**, [of this 2013 Act] by sub-  
18 section (1) of this section does not affect any fine imposed under section 5, **chapter 783, Oregon**  
19 **Laws 2013** [of this 2013 Act].

20 **“SECTION 16.** Section 5, chapter 783, Oregon Laws 2013, is amended to read:

21 **“Sec. 5.** (1) On and after January 1, 2014, and before January 2, [2016] **2017**, mining that uses  
22 any form of motorized equipment for the purpose of extracting gold, silver or any other precious  
23 metal from placer deposits of the beds or banks of the waters of this state, as defined in ORS  
24 196.800, or from other placer deposits, that results in the removal or disturbance of streamside  
25 vegetation in a manner that may impact water quality, is subject to the following:

26 “(a) The motorized dredge equipment must be operated at least 500 feet from other motorized  
27 dredge equipment, unless the Department of Environmental Quality determines that another distance  
28 is appropriate to protect water quality.

29 “(b) The motorized equipment may not be left unattended within the wetted perimeter of any  
30 waters of this state.

31 “(c) The motorized equipment may be operated only between the hours of 9 a.m. and 5 p.m.

32 “(2) The provisions of subsection (1) of this section apply to mining that occurs up to the line  
33 of ordinary high water, as defined in ORS 274.005, and 100 yards upland perpendicular to the line  
34 of ordinary high water of the full length of any river and tributary thereof in this state, of which  
35 any portion contains essential indigenous anadromous salmonid habitat, as defined in ORS 196.810,  
36 or naturally reproducing populations of bull trout.

37 “(3) The provisions of subsection (1) of this section do not apply to any mining for which the  
38 State Department of Geology and Mineral Industries issues an operating permit under ORS 517.702  
39 to 517.989.

40 “(4) During the period described in this section, the Department of State Lands shall limit the  
41 individual permits issued under ORS 196.810 and the general authorizations issued under ORS  
42 196.850 to not more than 850 permits and authorizations for mining described in this section at any  
43 time during the period described in this section. The Department of State Lands shall give priority,  
44 to the greatest extent practicable, to persons who held permits or authorizations for the longest  
45 period of time before January 1, 2014.

“(5) Violation of any provision of this section is a Class A violation.

