

**PROPOSED AMENDMENTS TO  
SENATE BILL 830**

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

5 Delete lines 5 through 23 and pages 2 through 6 and insert:  
6

7 **“REPEAL OF MORATORIUM ON CERTAIN MINING OPERATIONS**  
8

9 **“SECTION 1. Sections 2, 3 and 4, chapter 783, Oregon Laws 2013, are**  
10 **repealed.**

11  
12 **“CONSOLIDATED PERMITTING PROGRAM**  
13 **FOR MOTORIZED IN-STREAM PLACER MINING**  
14 **AND MOTORIZED UPLAND PLACER MINING**  
15

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

17 **“(1) ‘Biological resource habitat’ means essential indigenous**  
18 **anadromous salmonid habitat and habitat that is essential to the re-**  
19 **covery and conservation of pacific lamprey, bull trout and freshwater**  
20 **mollusks.**

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

1       **“(3) ‘Motorized in-stream placer mining’ means mining using any**  
2 **form of motorized equipment, including but not limited to the use of**  
3 **a motorized suction dredge, for the purpose of extracting gold, silver**  
4 **or any other precious metal from placer deposits of the beds or banks**  
5 **of the waters of the state.**

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

7       **“(a) Mining that uses any form of motorized equipment for the**  
8 **purpose of extracting gold, silver or any other precious metal from**  
9 **placer deposits located between the line of ordinary high water and 100**  
10 **yards upland perpendicular to the line of ordinary high water of the**  
11 **length of any waters of the state; and**

12       **“(b) Any activity related to mining described in paragraph (a) of**  
13 **this subsection, including the establishment of camps or access routes,**  
14 **that takes place in a location that is between the line of ordinary high**  
15 **water and 100 yards upland perpendicular to the line of ordinary high**  
16 **water of the length of any waters of the state.**

17       **“(5) ‘Operator’ means any person that is engaged in motorized in-**  
18 **stream placer mining operations or motorized upland placer mining**  
19 **operations.**

20       **“(6) ‘Waters of the state’ has the meaning given that term in ORS**  
21 **468B.005.**

22       **“SECTION 3. (1) An operator may not engage in motorized in-**  
23 **stream placer mining or motorized upland placer mining in any lo-**  
24 **cation without holding or being covered by a valid operating permit**  
25 **for that location that is issued by Department of Environmental**  
26 **Quality. Separate permit coverage is required for each separate mo-**  
27 **torized mining operation. An operator seeking an operating permit or**  
28 **permit coverage from the department shall submit an application by**  
29 **completing an online application form developed by the department**  
30 **by rule and available on the department’s website that contains the**

1 following information:

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

3 “(b) The global positioning system coordinates for where the mo-  
4 torized in-stream placer mining or motorized upland placer mining  
5 operation is proposed to occur;

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

8 “(d) An affirmation by the operator that the operator has reviewed  
9 information available as part of the online application process related  
10 to cultural resource preservation and best management practices for  
11 motorized in-stream placer mining and motorized upland placer min-  
12 ing; and

13 “(e) Any other information that the department requires by rule to  
14 be included in the application.

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

18 “(3) The department may refuse to issue an operating permit or  
19 grant permit coverage to an operator who:

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

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

28 **“SECTION 4. (1) The Environmental Quality Commission, in con-**  
29 **sultation with the Department of State Lands, the State Historic**  
30 **Preservation Officer, and federally recognized Indian tribes in Oregon,**

1 shall adopt by rule a program for the authorization by permit of mo-  
2 torized in-stream placer mining and motorized upland placer mining  
3 in this state, as described in section 3 of this 2015 Act.

4 “(2) Rules adopted under this section must:

5 “(a) Provide for the Department of Environmental Quality to serve  
6 as the single point of contact for operators with relation to the per-  
7 mitting of mining described in this section;

8 “(b) Include an application review process that allows for the De-  
9 partment of State Lands, the State Historic Preservation Officer,  
10 federally recognized Indian tribes in Oregon and any other state and  
11 federal agencies with an interest in or statutory responsibility related  
12 to mining described in this section to have adequate authority and no  
13 longer than 30 working days within which to make recommendations  
14 to the Department of Environmental Quality regarding permit condi-  
15 tions or whether to approve or deny a permit for motorized in-stream  
16 placer mining or motorized upland placer mining;

17 “(c) Include criteria for the issuance of permits by the Department  
18 of Environmental Quality that are consistent with all applicable fed-  
19 eral, state and local laws; and

20 “(d) Limit the combined total number of permits of any type de-  
21 scribed in section 3 of this 2015 Act to no more than 850 annually.

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

24 “(a) Limit the amount of removal or fill activity in waters of the  
25 state and the amount of removal or disturbance of streamside vege-  
26 tation that may occur under the permit;

27 “(b) Prohibit the movement of rock or large woody debris, as de-  
28 fined in ORS 196.800, if the rock or large woody debris could not  
29 physically be moved by a person without the aid of another person or  
30 tools;

1       “(c) Ensure that permits are displayed in plain view and clearly  
2 visible on or near motorized equipment in order to aid in the identifi-  
3 cation of operators;

4       “(d) Prevent or mitigate social conflict due to the noise caused by,  
5 or the proximity of, mining described in this section to residences,  
6 campgrounds, parks or other areas where social conflict could rea-  
7 sonably be expected to occur;

8       “(e) Ensure that motorized in-stream placer mining equipment is  
9 operated at a distance from other motorized equipment that is safe for  
10 the operators and protective of water quality;

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

12       “(g) Protect drinking water;

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

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

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

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

23       “(B) Ensures the removal of hazardous materials from the equip-  
24 ment while it is unattended.

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

29       “(a) The establishment of caps on the total number of permits for  
30 motorized in-stream placer mining and motorized upland placer min-

1 ing that may occur in a management zone;

2 “(b) Notwithstanding subsection (3) of this section, the establish-  
3 ment of conditions that may be applied to permits issued under this  
4 section that are in addition to, or in lieu of, the requirements under  
5 subsection (3) of this section and that are specific to the management  
6 zone; and

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

9 “(5) Rules adopted under this section:

10 “(a) May allow for adaptive management;

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

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

14 **“SECTION 5. (1) The Department of State Lands and the Depart-  
15 ment of Environmental Quality shall enter into a memorandum of  
16 agreement concerning motorized in-stream placer mining and motor-  
17 ized upland placer mining with respect to the operating permit pro-  
18 gram established under sections 2 to 11 of this 2015 Act, water quality  
19 programs administered by the Department of Environmental Quality  
20 under ORS chapter 468B and the issuance of permits under the pro-  
21 visions of ORS 196.600 to 196.905.**

22 **“(2) The memorandum described in subsection (1) of this section  
23 may assign sole responsibility for permitting to the Department of  
24 Environmental Quality when the motorized in-stream placer mining  
25 or motorized upland placer mining would otherwise be under the per-  
26 mitting jurisdiction of both the Department of State Lands and the  
27 Department of Environmental Quality.**

28 **“(3) In addition to a memorandum entered into under subsection (1)  
29 of this section, the Department of Environmental Quality and any  
30 other state agencies imposing requirements on motorized in-stream**

1 placer mining or motorized upland placer mining may enter into  
2 agreements for the department to act on behalf of the agencies in in-  
3 forming operators of the requirements and overseeing enforcement of  
4 the requirements.

5 “(4) Nothing in this section shall be interpreted as authorizing the  
6 Department of Environmental Quality to issue a permit for motorized  
7 in-stream placer mining or motorized upland placer mining without  
8 first meeting the review and consultation requirements adopted by the  
9 department by rule under section 4 (2) of this 2015 Act.

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

16 “(a) Designated biological resource habitat. ‘Biological resource  
17 habitat’ as defined under section 2 of this 2015 Act shall be further  
18 defined and designated by rule by the Department of State Lands in  
19 consultation with the State Department of Fish and Wildlife and in  
20 consultation with other affected parties.

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

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

25 “(d) Waters flowing through or wholly contained within a federally  
26 designated wilderness area or wilderness study area, national monu-  
27 ment, Botanical Special Interest Area as designated by the United  
28 States Forest Service or an area of critical environmental concern  
29 designated by the Bureau of Land Management.

30 “(e) Waters flowing through public land set aside or withdrawn

1 from mineral entry, unless the land is set aside or withdrawn for the  
2 purpose of recreational mining.

3 “(f) Unless specifically authorized by the appropriate Indian tribe  
4 pursuant to the application review process provided for by rules  
5 adopted under section 4 of this 2015 Act:

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

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

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

13 “(2) Subject to the provisions of subsection (1)(a) and (b) of this  
14 section, motorized in-stream placer mining may be permitted only  
15 under an individual operating permit, as provided in section 3 of this  
16 2015 Act, if the mining is to occur directly in the banks of the waters  
17 of the state or up to the line of ordinary high water in the beds of  
18 waters of the state that are within watersheds containing:

19 “(a) Designated biological resource habitat; or

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

23 “(3) In order to protect important natural resources, no motorized  
24 upland placer mining may be permitted to occur on land that is be-  
25 tween the line of ordinary high water and 100 yards upland perpen-  
26 dicular to the line of ordinary high water of the full length of any  
27 segment of waters of the state that are:

28 “(a) Designated biological resource habitat, as that term is defined  
29 under section 2 of this 2015 Act and subsection (1) of this section, un-  
30 less protection for the habitat may be otherwise achieved through the



1 issuance of an individual operating permit subject to the conditions  
2 adopted by rule under section 4 of this 2015 Act.

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

5 “(c) Waters flowing through or wholly contained within a federally  
6 designated wilderness area or wilderness study area, national monu-  
7 ment, Botanical Special Interest Area as designated by the United  
8 States Forest Service or an area of critical environmental concern  
9 designated by the Bureau of Land Management.

10 “(d) Waters flowing through public land set aside or withdrawn  
11 from mineral entry, unless the land is set aside or withdrawn for the  
12 purpose of recreational mining.

13 “(e) Unless specifically authorized by the appropriate Indian tribe  
14 pursuant to the application review process provided for by rules  
15 adopted under section 4 of this 2015 Act:

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

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

20 “(f) Waters listed as water quality impaired under the Federal Wa-  
21 ter Pollution Control Act (P.L. 92-500, as amended) for sediment,  
22 turbidity, toxics or heavy metals that are associated with sediments.

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

28 **“SECTION 8. Violation of any provisions of section 3, 4 or 6 of this**  
29 **2015 Act, or any rule, order or permit adopted or issued under section**  
30 **3, 4 or 6 of this 2015 Act is a Class A violation.**

1       **“SECTION 9. Sections 2 to 8 of this 2015 Act do not apply to any**  
2 **mining for which the State Department of Geology and Mineral In-**  
3 **dustries issues an operating permit under ORS 517.702 to 517.989.**

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

12       **“SECTION 11. The Environmental Quality Commission may estab-**  
13 **lish by rule a schedule of fees for operating permits under sections 3**  
14 **and 4 of this 2015 Act. The fees may be set in amounts sufficient to**  
15 **recover the costs of administering the program.**

16  
17                                   **“CONFORMING AMENDMENTS**  
18

19       **“SECTION 12. ORS 830.589 is amended to read:**

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

29       **“(2) The State Department of Fish and Wildlife, the State Marine Board**  
30 **or the State Department of Agriculture may decontaminate, or recommend**

1 decontamination of, any recreational or commercial watercraft **or piece of**  
2 **motorized equipment** that the agency inspects at a check station operated  
3 under authority of this section.

4 “(3) All check stations operated under authority of this section must be  
5 plainly marked by signs that comply with all state and federal laws and must  
6 be staffed by at least one uniformed employee of the State Department of  
7 Fish and Wildlife, the State Marine Board or the State Department of Agri-  
8 culture trained in inspection and decontamination of recreational or com-  
9 mercial watercraft **and motorized equipment**.

10 “(4) An agency that operates a check station under this section shall re-  
11 quire all persons transporting recreational or commercial watercraft **or**  
12 **pieces of motorized equipment** to stop at the check station, and the agency  
13 shall inspect every recreational or commercial watercraft **and piece of mo-**  
14 **torized equipment** that goes through the check station.

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

20 “(6) The State Department of Fish and Wildlife, the State Marine Board  
21 and the State Department of Agriculture may adopt rules to carry out the  
22 provisions of this section.

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

24 “830.998. (1) A person who is transporting a recreational or commercial  
25 watercraft, **or piece of motorized equipment used for motorized in-**  
26 **stream placer mining as defined in section 2 of this 2015 Act**, and fails  
27 to stop and submit to an inspection at an aquatic invasive species check  
28 station operated by the State Department of Fish and Wildlife, the State  
29 Marine Board or the State Department of Agriculture as provided under ORS  
30 830.589 commits a Class D violation.

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

8  
9 **“MISCELLANEOUS**

10  
11 **“SECTION 14. Sections 2 to 11 of this 2015 Act are added to and**  
12 **made a part of ORS chapter 468B.**

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

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

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

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

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

29 **“(a)** The motorized dredge equipment must be operated at least 500 feet  
30 from other motorized dredge equipment, unless the Department of Environ-

1 mental Quality determines that another distance is appropriate to protect  
2 water quality.

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

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

7 “(2) The provisions of subsection (1) of this section apply to mining that  
8 occurs up to the line of ordinary high water, as defined in ORS 274.005, and  
9 100 yards upland perpendicular to the line of ordinary high water of the full  
10 length of any river and tributary thereof in this state, of which any portion  
11 contains essential indigenous anadromous salmonid habitat, as defined in  
12 ORS 196.810, or naturally reproducing populations of bull trout.

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

16 “(4) During the period described in this section, the Department of State  
17 Lands shall limit the individual permits issued under ORS 196.810 and the  
18 general authorizations issued under ORS 196.850 to not more than 850 per-  
19 mits and authorizations for mining described in this section at any time  
20 during the period described in this section. The Department of State Lands  
21 shall give priority, to the greatest extent practicable, to persons who held  
22 permits or authorizations for the longest period of time before January 1,  
23 2014.

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

25 **“SECTION 17. ORS 468B.052 and sections 12 and 13, chapter 783,**  
26 **Oregon Laws 2013, are repealed on January 2, 2017.**

27

28

**“OPERATIVE DATE**

29

30 **“SECTION 18. (1) Sections 2 to 11 of this 2015 Act and the amend-**

1 **ments to ORS 830.589 and 830.998 by sections 12 and 13 of this 2015 Act**  
2 **become operative on January 2, 2017.**

3 **“(2) The Environmental Quality Commission shall take any actions**  
4 **before the operative date specified in subsection (1) of this section that**  
5 **are necessary for the commission to implement the requirements of,**  
6 **and to exercise all of the duties, functions and powers conferred on the**  
7 **commission by, sections 2 to 11 of this 2015 Act and the amendments**  
8 **to ORS 830.589 and 830.998 by sections 12 and 13 of this 2015 Act on and**  
9 **after the operative date specified in subsection (1) of this section.**

10

11 **“CAPTIONS**

12

13 **“SECTION 19. The unit captions used in this 2015 Act are provided**  
14 **only for the convenience of the reader and do not become part of the**  
15 **statutory law of this state or express any legislative intent in the**  
16 **enactment of this 2015 Act.**

17

18 **“EMERGENCY CLAUSE**

19

20 **“SECTION 20. This 2015 Act being necessary for the immediate**  
21 **preservation of the public peace, health and safety, an emergency is**  
22 **declared to exist, and this 2015 Act takes effect on its passage.”.**

23

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