

# Senate Bill 926

Sponsored by Senator PROZANSKI (at the request of McKenzie ClearWater Coalition)

## 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**.

Authorizes Department of State Lands to seize abandoned motor vehicles and junk on, under or over state-owned submerged or submersible lands and to use moneys in Submerged Lands Enhancement Fund for such seizure.

## A BILL FOR AN ACT

1  
2 Relating to submerged lands enhancement; amending ORS 274.376, 274.379, 274.382, 274.385 and  
3 274.388.

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

5 **SECTION 1.** ORS 274.376 is amended to read:

6 274.376. As used in ORS 274.376 to 274.388:

7 (1) "Abandoned structure" means a structure that has been left without authorization on, under  
8 or over state-owned submerged or submersible lands.

9 **(2) "Abandoned vehicle" means a motor vehicle that has been left without authorization**  
10 **on, under or over state-owned submerged or submersible lands.**

11 [(2)] **(3)** "Abandoned vessel" has the meaning given that term in ORS 830.908.

12 [(3)] **(4)** "Derelict structure" means a structure that is on, under or over state-owned submerged  
13 or submersible lands and that is:

14 (a) Sunk or in imminent danger of sinking due to its dilapidated condition;

15 (b) Obstructing a waterway;

16 (c) Endangering life or property; or

17 (d) In dilapidated condition such that it is in danger of becoming an environmental hazard as  
18 evidenced by instances of leaking fuel, sewage or other pollutants.

19 [(4)] **(5)** "Derelict vessel" has the meaning given that term in ORS 830.908.

20 **(6) "Junk" means old or scrap:**

21 **(a) Iron, steel, copper, brass or other ferrous or nonferrous metals, or objects made of**  
22 **ferrous or nonferrous metals;**

23 **(b) Motor vehicle parts, batteries, furniture, appliances or electronic equipment;**

24 **(c) Rope, rags, paper, household trash, debris or waste; or**

25 **(d) Other objects made of metal or nonmetal material.**

26 [(5)] **(7)** "Marine debris" means any manufactured or processed solid material that:

27 (a) Persists in the marine environment; and

28 (b) Is disposed of or abandoned, either with intention or unintentionally, in any waters of which  
29 the submersible or submerged lands belong to the State of Oregon.

30 **(8) "Motor vehicle" has the meaning given that term in ORS 801.360.**

31 [(6)] **(9)** "Owner" means a person who has a property interest in a structure, [or] a vessel, a

**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 **motor vehicle or junk.**

2 **SECTION 2.** ORS 274.379 is amended to read:

3 274.379. (1) The Department of State Lands is authorized to seize a structure on, under or over  
4 state-owned submerged or submersible lands if:

5 (a) The department determines, after providing notice and opportunity for a hearing, that the  
6 structure is an abandoned structure or a derelict structure; and

7 (b) The owner of the structure has failed to correct the problems identified in the notice within  
8 20 days or a longer reasonable time as specified in the notice provided under the rules adopted un-  
9 der ORS 274.385 or within any additional time that may be granted by the department.

10 **(2) After providing notice and opportunity for a hearing, the department is authorized to**  
11 **seize an abandoned vehicle if the vehicle's registered owner or motor vehicle liability insurer**  
12 **fails to correct the problem identified in the notice within four days, within a longer rea-**  
13 **sonable time as specified in the notice provided under the rules adopted under ORS 274.385**  
14 **or within any additional time that may be granted by the department.**

15 **(3) The department is authorized to seize junk after providing notice in a form and**  
16 **manner required by the department. The department by rule shall establish procedures for**  
17 **identifying and notifying potential owners of junk for purposes of this section.**

18 [(2)(a)] **(4)(a)** The notice required under [subsection (1)] **subsections (1), (2) and (3)** of this  
19 section must:

20 (A) Identify, with specificity, the department's proprietary interest in and jurisdiction over the  
21 state-owned submerged or submersible lands that the structure, **motor vehicle or junk** is on, under  
22 or over;

23 (B) Identify any person that the department has determined may have a potential interest in the  
24 structure, **motor vehicle or junk** or the land upon which the structure, **motor vehicle or junk** is  
25 located; and

26 (C) Be delivered by certified mail, return receipt requested, to any person with a potential in-  
27 terest in the structure, **motor vehicle or junk**, or the land upon which the structure, **motor ve-**  
28 **hicle or junk** is located, as determined by the department after diligent investigation.

29 (b) As used in this subsection, "diligent investigation" includes but is not limited to a search  
30 of the county property records.

31 [(3)] **(5)** The department may remove, salvage, store and dispose of structures, **motor vehicles**  
32 **and junk** seized under this section.

33 [(4)(a)] **(6)(a)** Nothing in this section affects the ability of the department to:

34 (A) Investigate and prosecute trespasses on and damage to state lands under ORS 273.185; or

35 (B) Immediately seize without notice a structure, **a motor vehicle or junk** that presents a  
36 hazard to navigation or an imminent threat to public health or safety.

37 (b) If the department seizes a structure, **a motor vehicle or junk** without notice under this  
38 subsection and the department wishes to salvage or dispose of the structure, **motor vehicle or**  
39 **junk**, the department shall provide notice as provided for in the rules adopted under ORS 274.385.

40 **SECTION 3.** ORS 274.382 is amended to read:

41 274.382. (1) Except as may otherwise be provided by the Department of State Lands by rule, the  
42 owner of an abandoned structure, [or] **a derelict structure, an abandoned vehicle or junk** is liable  
43 to the department for all costs arising out of removal, salvage, storage and disposal of a structure,  
44 **a motor vehicle or junk** seized under ORS 274.376 to 274.388. Any order imposing liability for the  
45 costs is an order other than a contested case and is subject to review under ORS 183.484.

1 (2) If the department sells a structure, **a motor vehicle or junk** seized under ORS 274.376 to  
2 274.388, the liability imposed under this section shall be reduced by the net proceeds of the sale.

3 (3) Except as may otherwise be provided by the department by rule, an owner of a structure, **a**  
4 **motor vehicle or junk** whose only interest in the structure, **motor vehicle or junk** is a security  
5 interest is not liable for costs arising out of removal, salvage, storage and disposal of a structure,  
6 **a motor vehicle or junk** under ORS 274.376 to 274.388.

7 **SECTION 4.** ORS 274.385 is amended to read:

8 274.385. The Department of State Lands shall adopt rules to carry out the provisions of ORS  
9 274.376 to 274.388. The rules shall, at a minimum, include procedures:

10 (1) For providing notice and opportunity for a hearing prior to the seizure of abandoned or  
11 derelict structures, **abandoned vehicles or junk** under ORS 274.376 to 274.388; and

12 (2) Related to the manner by which requests to the department for the use of moneys in the  
13 Submerged Lands Enhancement Fund may be made and evaluated by the department.

14 **SECTION 5.** ORS 274.388 is amended to read:

15 274.388. (1) The Submerged Lands Enhancement Fund is established in the State Treasury, sep-  
16 arate and distinct from the General Fund. Interest earned by the Submerged Lands Enhancement  
17 Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the De-  
18 partment of State Lands for the purposes specified in this section.

19 (2) Notwithstanding ORS 273.105, the fund shall consist of:

20 (a) No more than 20 percent of the moneys collected by the department per biennium pursuant  
21 to the department's granting of leases, easements, registrations and other permissions to use or oc-  
22 cupy state-owned submerged or submersible lands; and

23 (b) Moneys collected by the department under subsection (5) of this section.

24 (3) Moneys in the Submerged Lands Enhancement Fund may be used to pay the expenses of the  
25 department associated with management and enhancement activities on state-owned submerged and  
26 submersible lands, including but not limited to:

27 (a) Removal, salvage, storage and disposal of abandoned or derelict structures, **abandoned ve-**  
28 **hicles or junk** under ORS 274.379;

29 (b) Removal and disposal of marine debris;

30 (c) Assistance with the salvage, towing, storage and disposal of abandoned or derelict vessels  
31 pursuant to ORS 830.908 to 830.948; and

32 (d) Engagement in activities to improve water quality, watershed enhancement and fish and  
33 wildlife habitat on submerged and submersible lands.

34 (4) The department may use moneys in the fund to provide funding to a state agency, county,  
35 city, water improvement district, watershed council, park and recreation district, port district,  
36 federally recognized Indian tribe or nonprofit organization to assist the department in completing  
37 any of the management and enhancement activities provided for in subsection (3) of this section.

38 (5) The department may recover payments made from the fund from an owner of a structure,  
39 [or vessel] **a motor vehicle or junk** who is liable for the costs of removal, salvage, storage and  
40 disposal of a structure, **a motor vehicle or junk** under ORS 274.382. The department shall deposit  
41 all moneys recovered under this subsection into the fund.

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