

Enrolled
House Bill 2835

Sponsored by Representatives HELM, MARSH, POWER, WILLIAMS; Representatives HOLVEY, MITCHELL, WITT, Senators DEMBROW, GOLDEN, KNOPP

CHAPTER

AN ACT

Relating to recreational use of waterways; and prescribing an effective date.

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

SECTION 1. (1) As used in this section:

(a) "Public access site" means a site on state public lands where the public may access the lands for recreational use of a floatable natural waterway.

(b) "State public lands" means any land, or improvements thereon, owned by the State of Oregon.

(2)(a) Before a state agency may restrict or close access to a public access site, the agency shall post notice on the agency's website for 30 days prior to the date that the restriction or closure is proposed to take effect.

(b) Paragraph (a) of this subsection does not apply to a restriction or closure for:

(A) An emergency, including but not limited to an emergency related to a domestic water supply source.

(B) Fire prevention pursuant to the provisions of ORS 401.165 to 401.236 or 477.535 to 477.550.

(C) Critical wildlife management activities.

(D) A restriction or closure adopted by rule by the State Land Board.

(E) A temporary restriction or closure, if the restriction or closure is for not more than 30 days.

(F) A temporary restriction or closure, if the restriction or closure is for routine maintenance or construction and lasts for more than 30 days.

(3) On or before January 1 of each year, any state agency that restricted, closed, opened or reopened access to a public access site in the previous calendar year shall submit a report to the Legislative Assembly that describes:

(a) The number and location of restrictions or closures to public access sites in the previous calendar year, including any restrictions or closures that were found to be exempt from public notice requirements under subsection (2)(b) of this section;

(b) The reasons for any restrictions or closures identified under paragraph (a) of this subsection;

(c) The number and location of public access sites that the agency opened in the previous calendar year;

(d) The number and location of public access sites that had been closed and that the agency reopened in the previous calendar year; and

(e) The number and location of public access sites where access had been restricted and where the agency restored access in the previous calendar year.

(4) Nothing in this section shall be construed to affect the jurisdiction or responsibility of any state agency with respect to the operation of boats, hunting and fishing seasons, method of take or limits for hunting and fishing, water pollution or fire control, except that a state agency shall endeavor to perform the agency's responsibilities in a manner that is consistent with the provisions of this section.

(5) State agencies may adopt rules to carry out the provisions of this section.

(6) This section may not be interpreted to:

(a) Restrict the federal navigational servitude; or

(b) Restrict or expand any rights a person has under existing common law.

SECTION 2. (1) As used in this section:

(a)(A) "Project" means a bridge project proposed for funding under a draft Statewide Transportation Improvement Program that consists of:

(i) Construction of a new bridge that crosses a floatable natural waterway; or

(ii) Improvements to an existing bridge that crosses a floatable natural waterway.

(B) "Project" does not mean maintenance of an existing bridge.

(b) "Public access" means public access to a floatable natural waterway.

(2) The Department of Transportation shall notify the Department of State Lands, the State Parks and Recreation Department and the State Marine Board when the Department of Transportation proposes a project for funding under a draft Statewide Transportation Improvement Program, unless:

(a) The project is part of a project on a limited access highway or ferry terminal; or

(b) The Department of Transportation determines that siting public access near the project is not feasible.

(3) After receiving notice from the Department of Transportation under subsection (2) of this section, the Department of State Lands, the State Parks and Recreation Department and the State Marine Board may propose changes to the project to enable public access and may provide the Department of Transportation with an estimate of:

(a) The availability of funding from sources other than the State Highway Fund for a public access site near the project;

(b) The likelihood and type of any potential public use of a public access site near the project; and

(c) Any impacts associated with siting public access near the project.

(4) After receiving proposed changes to a project under subsection (3) of this section, the Department of Transportation shall consider:

(a) The proposed changes;

(b) Whether the proposed changes alter the purpose of or need for the project;

(c) The availability of funding from sources other than the State Highway Fund for a public access site near the project;

(d) The likelihood and type of any potential public use of a public access site near the project;

(e) Any impacts associated with siting public access near the project; and

(f) Any impacts on traffic, roadways or highway safety from siting public access near the project.

(5) To the greatest extent practicable, when constructing a project, the Department of Transportation may not adversely impact existing, lawful public access.

SECTION 3. Section 1 of this 2019 Act applies to restrictions or closures of public access sites proposed on or after the effective date of this 2019 Act.

SECTION 4. Section 2 of this 2019 Act applies to draft Statewide Transportation Improvement Programs proposed after the effective date of this 2019 Act.

SECTION 5. This 2019 Act takes effect on the 91st day after the date on which the 2019 regular session of the Eightieth Legislative Assembly adjourns sine die.

Passed by House April 16, 2019

Received by Governor:

Repassed by House June 5, 2019

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Approved:

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Timothy G. Sekerak, Chief Clerk of House

.....M,....., 2019

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Tina Kotek, Speaker of House

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Kate Brown, Governor

Passed by Senate May 22, 2019

Filed in Office of Secretary of State:

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Peter Courtney, President of Senate

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Bev Clarno, Secretary of State