

House Bill 2925

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Tina Kotek for State Parks and Recreation Department)

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**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act changes the law for permits for some activities on the ocean shore. (Flesch Readability Score: 71.1).

Modifies existing permitting procedures for ocean shore improvements. Authorizes the State Parks and Recreation Department to issue general authorization permits for limited activities on the ocean shore.

A BILL FOR AN ACT

1
2 Relating to ocean shore permitting; creating new provisions; and amending ORS 390.650, 390.659,
3 390.661, 390.663, 390.666 and 390.725.

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

5 **SECTION 1.** ORS 390.650 is amended to read:

6 390.650. (1) Any person who desires a permit to make an improvement on any property subject
7 to ORS 390.640 shall apply in writing to the State Parks and Recreation Department on a form and
8 in a manner prescribed by the department, stating the kind of and reason for the improvement.

9 *[(2) Upon receipt of a properly completed application, the State Parks and Recreation Department*
10 *shall provide notice of the proposal by causing notice of the application to be posted at or near the*
11 *location of the proposed improvement. The notice shall include the name of the applicant, a description*
12 *of the proposed improvement and its location and a statement of the time within which interested per-*
13 *sons may file a request with the department for a hearing on the application. The department shall give*
14 *notice of any application, hearing or decision to any person who files a written request with the de-*
15 *partment for such notice.]*

16 **(2)(a) The department shall determine whether an application is complete within 30 days**
17 **of receiving the application. If the department determines that an application is complete,**
18 **the department shall:**

19 **(A) Post written notice of the application at or near the location of the proposed im-**
20 **provement.**

21 **(B) Provide written notice and the opportunity for public hearing for 30 days to affected**
22 **federal and state agencies, local governments, federally recognized Indian tribes in Oregon**
23 **and the public.**

24 **(C) Provide written notice to:**

25 **(i) All landowners whose land is identified in the application;**

26 **(ii) All landowners whose land is adjacent to or directly affected by the proposed im-**
27 **provement or associated activities; and**

28 **(iii) All persons who file a written request with the department for such notice.**

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 **(b) The notice under paragraph (a) of this subsection shall include the name of the ap-**
 2 **plicant, a description of the proposed improvement, the location of the proposed improve-**
 3 **ment and a statement of the time period within which interested persons may provide**
 4 **comments or file with the department a request for a hearing on the application. The de-**
 5 **partment shall give notice of any application, hearing or decision to a person who files a**
 6 **written request with the department for such notice.**

7 **(c) If the department determines that an application is not complete, the department**
 8 **shall notify the applicant in writing of the incomplete status and provide an explanation of**
 9 **the deficiencies of the application.**

10 (3)(a) Within 30 days after the date of posting the notice required in subsection (2) of this sec-
 11 tion, the applicant or 10 or more other interested persons may file a written request with the [*State*
 12 *Parks and Recreation Department*] **department** for a hearing on the application. If such a request
 13 is filed, the department shall set a time for a hearing to be held by the department. The department
 14 shall cause notice of the hearing to be posted in the manner provided in subsection (2) of this sec-
 15 tion. The notice shall include the time and place of the hearing. [*After the hearing on an application*
 16 *or, if a hearing is not requested, after the time for requesting a hearing has expired, the department*
 17 *shall grant the permit if approval would not be adverse to the public interest.*] ORS chapter 183 does
 18 not apply to a hearing or decision under this section.

19 **(b) Any public body, as defined in ORS 174.109, federal agency or federally recognized**
 20 **Indian tribe in Oregon requested by the department to comment on an application for a**
 21 **permit must submit its comments to the department not more than 30 days after receiving**
 22 **the request for comment. If a public body, federal agency or tribe does not comment on the**
 23 **application within 30 days, the department shall assume that the public body, federal agency**
 24 **or tribe has no objection.**

25 (4)(a) In acting on an application, the [*State Parks and Recreation Department*] **department** shall
 26 take into consideration the matters described by ORS 390.655. [*The department shall act on an ap-*
 27 *plication within 60 days after the date of receipt or, if a hearing is held, within 45 days after the date*
 28 *of the hearing.*] **The department shall issue a permit decision within 90 days of the date that**
 29 **the department determines that the application is complete, unless:**

30 **(A) The period following a scheduled hearing would provide less than 45 days for a deci-**
 31 **sion, in which case the decision shall be made within 45 days after the date of the hearing;**

32 **(B) The applicant and the department agree in writing to a longer period of time for the**
 33 **department to make a permit decision; or**

34 **(C) The department determines that an extension is reasonably necessary to coordinate**
 35 **authorization for the use of public lands with the permit decision.**

36 [(a)] **(b) The decision of the department shall include written findings setting forth the specific**
 37 **reasons for the approval or denial and, if the application is approved, any conditions the department**
 38 **considers necessary to maintain the standards established under ORS 390.655.**

39 [(b) *A copy of the written findings shall be furnished to the applicant at the time of approval or*
 40 *denial of the application by the department as provided in this subsection.*]

41 **(c) The department shall provide a copy of the written findings to the applicant at the**
 42 **time the department approves or denies the application.**

43 (5) Subsections (2) and (3) of this section do not apply to:

44 **(a) An application for a permit for the repair, replacement or restoration, in the same location,**
 45 **of an authorized improvement or improvement existing on or before May 1, 1967, if the repair, re-**

1 placement or restoration is commenced within three years after the damage to or destruction of the
2 improvement being repaired, replaced or restored occurs.

3 **(b) An application submitted under section 3 of this 2025 Act.**

4 *[(6) The State Parks and Recreation Department may, upon application therefor, either written or*
5 *oral, grant an emergency permit for a new improvement, dike, revetment, or for the repair, replacement*
6 *or restoration of an existing, or authorized improvement where property or property boundaries are in*
7 *imminent peril of being destroyed or damaged by action of the Pacific Ocean or the waters of any bay*
8 *or river of this state. Said permit may be granted by the department without regard to the provisions*
9 *of subsections (1), (2), (3), (4) and (5) of this section. Any emergency permit granted hereunder shall*
10 *be reduced to writing by the department within 10 days after granting the same with a copy thereof*
11 *furnished to the applicant.]*

12 *[(7) Except as provided by subsection (8) of this section, each application under subsection (1) of*
13 *this section shall be accompanied by a fee to cover, in part, the expenses of the department in investi-*
14 *gating, reviewing and issuing the improvement permits. The application fee for each permit shall be:]*

15 *[(a) \$400 for any project for which the construction value is less than \$2,500.]*

16 *[(b) \$400 for any project for which the construction value is equal to or greater than \$2,500, plus*
17 *an additional amount equal to three percent of the construction value over \$2,500.]*

18 *[(8) The department may waive or reduce the fee required by subsection (7) of this section for an*
19 *application submitted by a public body, as that term is defined by ORS 174.109, or tribal government*
20 *if the primary purpose of the improvement is:]*

21 *[(a) Restoring, conserving or protecting the natural, resource, scenic, recreational, cultural or eco-*
22 *nomical values of the ocean shore;]*

23 *[(b) Restoring native beach or dune habitat contributing to the recovery of sensitive species, in-*
24 *cluding state and federally listed threatened or endangered species; or]*

25 *[(c) Improving native biological values of the ocean shore.]*

26 **(6)(a) Notwithstanding subsection (1) of this section, the department may issue an**
27 **emergency permit to a person to alter the ocean shore in response to an active erosion event**
28 **or natural hazard for the purpose of making repairs or providing immediate and temporary**
29 **measures to prevent imminent irreparable harm, injury or damage to persons or existing**
30 **infrastructure.**

31 **(b) In accordance with the policy and standards in ORS 390.610 and 390.655, the depart-**
32 **ment shall adopt rules to administer this subsection, including but not limited to rules es-**
33 **tablishing:**

34 **(A) The process for requesting and approving emergency authorizations;**

35 **(B) Definitions of “emergency,” “alter,” “temporary measures” and other necessary**
36 **terms; and**

37 **(C) Requirements necessary to avoid or minimize impacts to the ocean shore, ocean**
38 **shore resources and affected property.**

39 **(7)(a) The department shall adopt rules to establish fees for:**

40 **(A) Ocean shore improvement permits issued under this section;**

41 **(B) Emergency permits issued under this section; and**

42 **(C) General authorization permits issued under section 3 of this 2025 Act.**

43 **(b) The department shall establish fees under this subsection in consideration of recovery**
44 **of administrative costs to the department, the type of applicant, the public benefit associated**
45 **with the project, the construction value of the project, the impact to the ocean shore asso-**

1 **ciated with the project type and mitigation costs associated with damage to the ocean shore**
 2 **or use of the ocean shore.**

3 [(9)] (8) Fees received under this section shall be deposited into a subaccount of the State Parks
 4 and Recreation Department Fund. Such fees are continuously appropriated to the department for the
 5 purpose of carrying out the ocean shore program.

6 [(10)] (9) As used in this section, “construction value” includes but is not limited to the costs
 7 of labor and equipment rental. *[For a project involving only the movement of sand or similar material*
 8 *on the ocean shore, “construction value” shall equal the costs of labor, fees and equipment rental.]*

9 **SECTION 2. Section 3 of this 2025 Act is added to and made a part of ORS 390.620 to**
 10 **390.676.**

11 **SECTION 3. (1) Notwithstanding ORS 390.640, the State Parks and Recreation Depart-**
 12 **ment may, consistent with the policy in ORS 390.610 and standards in ORS 390.655, establish**
 13 **by rule a general authorization permit for improvements on the ocean shore if the depart-**
 14 **ment determines that the activities subject to the permit are substantially similar in nature**
 15 **and:**

16 (a) **Restore, conserve, enhance or protect the natural, economic, scenic, recreational or**
 17 **cultural values of the ocean shore;**

18 (b) **Restore native beach or dune habitat contributing to the recovery of sensitive species,**
 19 **including state or federally listed threatened or endangered species;**

20 (c) **Improve native biological values of the ocean shore; or**

21 (d) **Cause no more than temporary or minimal impact to the ocean shore or ocean shore**
 22 **resources.**

23 (2) **A general authorization permit may be granted on a statewide or geographic basis.**

24 (3) **The department shall condition any general authorization permit upon actions neces-**
 25 **sary to minimize impacts to the ocean shore or ocean shore resources.**

26 (4) **The department shall provide notice of and opportunity for public hearing on any**
 27 **proposed general authorization permit to affected federal and state agencies, local govern-**
 28 **ments, federally recognized Indian tribes in Oregon and the public.**

29 (5) **A person proposing to conduct an action under a general authorization permit shall:**

30 (a) **Submit an application to the department on a form provided by the department.**

31 (b) **Pay to the department the applicable fee specified by the department under ORS**
 32 **390.650.**

33 (6) **Upon receipt of a complete application, and within the time period specified by the**
 34 **department by rule, the department may:**

35 (a) **Approve the general authorization permit if the department determines the applica-**
 36 **tion satisfies all the applicable requirements;**

37 (b) **Deny the general authorization permit if the department determines the application**
 38 **does not satisfy all the applicable requirements; or**

39 (c) **Approve the general authorization permit subject to additional or modified require-**
 40 **ments imposed by the department that are designed to protect ocean shore resources.**

41 (7) **The department shall amend or rescind a general authorization permit if the depart-**
 42 **ment determines that the activities conducted under the permit are inconsistent with this**
 43 **section or any rules adopted under this section.**

44 **SECTION 4. ORS 390.659 is amended to read:**

45 **390.659. (1) Any applicant whose application for a permit under ORS 390.650 or section 3 of**

1 **this 2025 Act** has been denied or who objects to any condition imposed on the permit or any person
 2 aggrieved or adversely affected by the granting of a permit may, within 30 days after the denial of
 3 the permit or the imposition of the condition, request a hearing from the State Parks and Recreation
 4 Director.

5 (2) Upon receipt of a request for hearing from the applicant or if the director finds that the
 6 person other than the applicant making the request has a legally protected interest that is adversely
 7 affected by the grant of the permit, the director shall set the matter down for hearing within 30 days
 8 after receipt of the request. The hearing shall be conducted as a contested case in accordance with
 9 ORS 183.415 to 183.430, 183.440 to 183.460 and 183.470. The applicant shall be a party to any con-
 10 tested case hearing requested by a person other than the applicant.

11 (3) Within 45 days after the hearing the director shall enter an order containing findings of fact
 12 and conclusions of law. The order shall rescind, affirm or modify the director's original order. Ap-
 13 peals from the director's final order may be taken to the Court of Appeals in the manner provided
 14 by ORS 183.482.

15 (4) A permit granted by the director may be suspended by the director during the pendency of
 16 the proceedings before the director and any appeal. The director shall not suspend the permit unless
 17 the person aggrieved or adversely affected by grant of permit makes a showing before the director
 18 by clear and convincing evidence that commencement or continuation of the improvement would
 19 cause irreparable damage and would be inconsistent with ORS 390.610, 390.620 to 390.676, 390.690
 20 and 390.705 to 390.770.

21 **SECTION 5.** ORS 390.661 is amended to read:

22 390.661. The improvement on any property within the ocean shore without a permit issued under
 23 ORS 390.650 **or section 3 of this 2025 Act**, or in a manner contrary to the conditions set out in the
 24 permit, is a public nuisance.

25 **SECTION 6.** ORS 390.663 is amended to read:

26 390.663. (1) If the State Parks and Recreation Director determines that any improvement is being
 27 made on property within the ocean shore without a permit issued under ORS 390.650 **or section 3**
 28 **of this 2025 Act**, or in a manner contrary to the conditions set out in the permit, the director may:

29 (a) Investigate, hold hearings, make orders and take action, as provided in ORS 390.620 to
 30 390.676, as soon as possible.

31 (b) For the purpose of investigating conditions relating to such improvements, through the em-
 32 ployees or the duly authorized representatives of the State Parks and Recreation Department, enter
 33 at reasonable times upon any private or public property.

34 (c) Conduct public hearings in accordance with ORS chapter 183.

35 (d) Publish findings and recommendations as they are developed relative to public policies and
 36 procedures necessary for the correction of conditions or violations of ORS 390.620 to 390.676.

37 (e) Give notice of any proposed order relating to a violation by personal service or by mailing
 38 the notice by registered or certified mail to the person or governmental body affected. Any person
 39 aggrieved by a proposed order of the director may request a hearing within 20 days of the date of
 40 personal service or mailing of the notice. Hearings shall be conducted under the provisions of ORS
 41 chapter 183 applicable to contested cases, and judicial review of final orders shall be conducted in
 42 the Court of Appeals according to ORS 183.482. If no hearing is requested or if the party fails to
 43 appear, a final order shall be issued upon a prima facie case on the record of the department.

44 (f) Take appropriate action for the enforcement of any rules or final orders. Any violation of
 45 ORS 390.620 to 390.676 or of any rule or final order of the director under ORS 390.620 to 390.676

1 may be enjoined in civil abatement proceedings brought in the name of the State of Oregon. In any
 2 such proceedings, the director may seek and the court may award a sum of money sufficient to
 3 compensate the public for any destruction or infringement of any public right of navigation, fishery
 4 or recreation resulting from such violation. Proceedings brought by the director shall set forth, if
 5 applicable, the dates of notice and hearing and the specific rule or order of the director, together
 6 with the facts of noncompliance, the facts giving rise to the public nuisance and a statement of the
 7 damages to any public right of navigation, fishery or recreation, if any, resulting from such vio-
 8 lation.

9 (2) In addition to the administrative action the director may take under subsection (1) of this
 10 section, the director may enter an order requiring any person to cease and desist from any violation
 11 if the director determines that such violation presents an imminent and substantial risk of injury,
 12 loss or damage to the ocean shore.

13 (3) An order under subsection (2) of this section:

14 (a) May be entered without prior notice or hearing.

15 (b) Shall be served upon the person by personal service or by registered or certified mail.

16 (c) Shall state that a hearing will be held on the order if a written request for hearing is filed
 17 by the person subject to the order within 10 days after receipt of the order.

18 (d) Shall not be stayed during the pendency of a hearing conducted under subsection (4) of this
 19 section.

20 (4) If a person subject to an order under subsection (2) of this section files a timely demand for
 21 hearing, the director shall hold a contested case hearing according to the applicable provisions of
 22 ORS chapter 183. If the person fails to request a hearing, the order shall be entered as a final order
 23 upon prima facie case made on the record of the department.

24 (5) Neither the director nor any duly authorized representative of the department shall be liable
 25 for any damages a person may sustain as a result of a cease and desist order issued under sub-
 26 section (2) of this section.

27 (6) The state and local police shall cooperate in the enforcement of any order issued under
 28 subsection (2) of this section and shall require no further authority or warrant in executing or en-
 29 forcing such order. If any person fails to comply with an order issued under subsection (2) of this
 30 section, the circuit court of the county in which the violation occurred or is threatened shall compel
 31 compliance with the director's order in the same manner as with an order of that court.

32 (7) As used in this section, "violation" means making an improvement on property within the
 33 ocean shore without a permit or in a manner contrary to the conditions set out in a permit issued
 34 under ORS 390.650 **or section 3 of this 2025 Act**.

35 **SECTION 7.** ORS 390.666 is amended to read:

36 390.666. If the State Parks and Recreation Director finds that a person or governmental body
 37 holding a permit issued under ORS 390.650 **or section 3 of this 2025 Act** is making an improvement
 38 on property within the ocean shore contrary to the conditions set out in the permit, the director
 39 may revoke, suspend or refuse to renew such permit. The director may revoke a permit only after
 40 giving notice and opportunity for a hearing as provided in ORS 183.415 to 183.430, 183.440 to 183.460
 41 and 183.470.

42 **SECTION 8.** ORS 390.725 is amended to read:

43 390.725. (1) Removal of natural products such as fish or wildlife, agates or small amounts of
 44 driftwood from a state recreation area as defined in ORS 390.605 for personal, noncommercial use
 45 is not subject to the provisions of ORS 390.650 **or section 3 of this 2025 Act**.

1 (2) The collection of natural products for the purpose of trade, sale or resale shall be subject
 2 to the permit provisions and standards of ORS 390.650 and 390.655 **or section 3 of this 2025 Act.**
 3 Permits shall provide for the payment of just compensation by the permittee as provided by rule
 4 adopted under subsection (4) of this section.

5 (3) No archaeological object associated with an archaeological site, as those terms are defined
 6 in ORS 358.905, shall be removed from the ocean shore except as provided in ORS 358.920 and
 7 390.235.

8 (4) Rules or permits shall be made or granted by the State Parks and Recreation Department
 9 only after consultation with the State Fish and Wildlife Commission, the State Department of
 10 Geology and Mineral Industries and the Department of State Lands. Rules and permits shall contain
 11 provisions necessary to protect the areas from any use, activity or practice inimicable to the con-
 12 servation of natural resources or public recreation.

13 (5) The terms, royalty and duration of a permit under this section are at the discretion of the
 14 State Parks and Recreation Department. A permit is revocable at any time in the discretion of the
 15 department without liability to the permittee.

16 (6) Whenever the issuance of a permit under this section will affect lands owned privately, the
 17 State Parks and Recreation Department shall withhold the issuance of such permit until such time
 18 as the permittee shall have obtained an easement, license or other written authorization from the
 19 private owner, which easement, license or other written authority must meet the approval of the
 20 department, except as to the compensation to be paid to the private owner.

21 **SECTION 9. Section 3 of this 2025 Act and the amendments to ORS 390.650 by section 1**
 22 **of this 2025 Act apply to applications for a permit submitted to the State Parks and Recre-**
 23 **ation Department on or after the effective date of this 2025 Act.**