

House Bill 3128

Sponsored by Representative OWENS (Pre-session filed.)

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 says that a person does not need to get a permit in order to store surface water to prepare for responding to fire. (Flesch Readability Score: 69.7).

Provides that the storage of surface water for fire response preparedness does not require a water right application, permit or certificate.

A BILL FOR AN ACT

1
2 Relating to the use of water for fire response preparedness; amending ORS 537.141.

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

4 **SECTION 1.** ORS 537.141 is amended to read:

5 537.141. (1) The following water uses do not require an application under ORS 537.130 or
6 537.615, a water right permit under ORS 537.211 or a water right certificate under ORS 537.250:

7 (a) Emergency fire-fighting uses **or the storage of surface water, of up to one acre-foot per**
8 **reservoir or tank, for fire response preparedness;**

9 (b) Nonemergency fire-fighting training, provided:

10 (A) The source of the water is existing storage and the use occurs with permission of the owner
11 of the stored water; or

12 (B) If the source of water is other than existing storage, the use occurs with the prior written
13 approval of the watermaster in the district where the training will take place and subject to any
14 conditions the watermaster determines are necessary to prevent injury to existing water rights and
15 to protect in-stream resources;

16 (c) Water uses that divert water to water tanks or troughs from a reservoir for a use allowed
17 under an existing water right permit or certificate for the reservoir;

18 (d) Fish screens, fishways and fish by-pass structures, as exempted by rule of the Water Re-
19 sources Commission;

20 (e) Land management practices intended to save soil and improve water quality by temporarily
21 impeding or changing the natural flow of diffuse surface water across agricultural lands when stor-
22 age of public waters is not an intended purpose. Such practices include but are not limited to:

23 (A) Terraces;

24 (B) Dikes;

25 (C) Retention dams and other temporary impoundments; and

26 (D) Agronomic practices designed to improve water quality and control surface runoff to prevent
27 erosion, such as ripping, pitting, rough tillage and cross slope farming;

28 (f) Livestock watering operations that comply with the requirements under subsections (2) and
29 (3) of this section;

30 (g) Forest management activities that require the use of water in conjunction with mixing pes-

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 ticides as defined in ORS 634.006, or in slash burning;

2 (h) The collection of precipitation water from an artificial impervious surface and the use of
3 such water;

4 (i) Land application of ground water so long as the ground water:

5 (A) Has first been appropriated and used under a permit or certificate issued under ORS 537.625
6 or 537.630 for a water right issued for industrial purposes or a water right authorizing use of water
7 for confined animal feeding purposes;

8 (B) Is reused for irrigation purposes and the period of irrigation is a period during which the
9 reused water has never been discharged to the waters of the state; and

10 (C) Is applied pursuant to a permit issued by the Department of Environmental Quality or the
11 State Department of Agriculture under either ORS 468B.050 to construct and operate a disposal
12 system or ORS 468B.215 to operate a confined animal feeding operation; and

13 (j) Surface mining practices that result in the removal of water from a surface mine subject to
14 an operating permit or reclamation plan approved by the State Department of Geology and Mineral
15 Industries, unless the water is used for a subsequent beneficial use.

16 (2) The use of surface water for livestock watering may be exempted under subsection (1) of this
17 section if:

18 (a) The water is diverted from a stream or other surface water source to a trough or tank
19 through an enclosed water delivery system;

20 (b) The delivery system either is equipped with an automatic shutoff or flow control mechanism
21 or includes a means for returning water to the surface water source through an enclosed delivery
22 system; and

23 (c) The operation is located on land from which the livestock would otherwise have legal access
24 to both the use and source of the surface water source.

25 (3) If the diversion system described in subsection (2) of this section is located within or above
26 a scenic waterway, the amount of water that may be used without a water right is limited to one-
27 tenth of one cubic foot per second per 1,000 head of livestock. Nothing in this section shall prevent
28 the Water Resources Commission from approving an application for a water right permit for a de-
29 livery system not qualifying under subsection (2) of this section.

30 (4) The Water Resources Department, in conjunction with local soil and water conservation
31 districts, the Oregon State University Extension Service, the State Department of Agriculture and
32 the State Department of Fish and Wildlife and any other organization interested in participating,
33 shall develop and implement a voluntary educational program on livestock management techniques
34 designed to keep livestock away from streams and riparian areas.

35 (5) To qualify for an exempt use under subsection (1)(g) of this section, the user shall:

36 (a) Submit notice of the proposed use, including the identification of the proposed water source,
37 to the Water Resources Department and to the State Department of Fish and Wildlife at the time
38 notice is provided to other affected agencies pursuant to ORS 527.670; and

39 (b) Comply with any restrictions imposed by the department pertaining to sources of water that
40 may not be used in conjunction with the proposed activity.

41 (6) Except for the use of water under subsection (1)(i) of this section, the Water Resources
42 Commission by rule may require any person or public agency diverting water as described in sub-
43 section (1) of this section to furnish information with regard to such water and the use thereof. For
44 a use of water described in subsection (1)(i) of this section, the Department of Environmental Qual-
45 ity or the State Department of Agriculture shall provide to the Water Resources Department a copy

1 of the permit issued under ORS 468B.050 or 468B.215 authorizing the land application of ground
2 water for reuse. The permit shall provide the information regarding the place of use of such water
3 and the nature of the beneficial reuse.

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