

Requested by Senator COURTNEY

**PROPOSED AMENDMENTS TO
SENATE BILL 3**

1 On page 1 of printed bill, line 2, after “provisions;” delete the rest of the
2 line and delete lines 3 and 4 and insert “and repealing ORS 468B.052 and
3 sections 2, 3, 4, 12 and 13, chapter 783, Oregon Laws 2013.”.

4 Delete lines 6 through 20 and delete pages 2 through 10 and insert:

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6 **“REPEAL OF MORATORIUM ON MINING USING MOTORIZED
7 EQUIPMENT**

8

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10 repealed.**

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12 **“PROHIBITION ON CERTAIN PLACER MINING OPERATIONS**

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14 **“SECTION 2. Sections 3 to 6 of this 2017 Act are added to and made
15 a part of ORS chapter 468B.**

16 **“SECTION 3. As used in sections 3 to 6 of this 2017 Act:**

17 **“(1) ‘Essential indigenous anadromous salmonid habitat’ has the
18 meaning given that term in ORS 196.810, as further defined and des-
19 ignated by rule by the Department of State Lands pursuant to ORS
20 196.810.**

21 **“(2) ‘Line of ordinary high water’ has the meaning given that term**

1 in ORS 274.005.

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

7 “(4) ‘Operator’ means any person that is engaged in motorized in-
8 stream placer mining operations.

9 **“SECTION 4. (1) An operator may not allow a discharge to waters
10 of the state from a motorized in-stream placer mining operation or
11 activity without having an individual permit or being covered by a
12 general permit issued under ORS 468B.050.**

13 **“(2) In order to protect indigenous anadromous salmonids and
14 habitat essential to the recovery and conservation of Pacific lamprey,
15 motorized in-stream placer mining may not be permitted to occur up
16 to the line of ordinary high water in any river in this state containing
17 essential indigenous anadromous salmonid habitat, from the lowest
18 extent of essential indigenous anadromous salmonid habitat to the
19 highest extent of essential indigenous anadromous salmonid habitat.**

20 **“(3) The prohibition in subsection (2) of this section does not apply
21 to the use of nonmotorized mining technology, including but not lim-
22 ited to gravity dredges and syphon dredges.**

23 **“SECTION 5. (1) An application for a permit under ORS 468B.050 to
24 engage in motorized in-stream placer mining must include:**

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

26 **“(b) Information on how the proposed motorized in-stream placer
27 mining location will be accessed by the operator;**

28 **“(c) A written affirmation furnished by the operator stating that
29 the operator has reviewed information that is available as part of an
30 application process and that is related to cultural resource preserva-**

1 tion and best management practices for motorized in-stream placer
2 mining;

3 “(d) The geographic coordinates for the proposed motorized in-
4 stream placer mining operation; and

5 “(e) Any other information required to be included in the applica-
6 tion.

7 “(2) In addition to any other condition imposed by the permit, mo-
8 torized in-stream placer mining pursuant to a permit issued under
9 ORS 468B.050 may not:

10 “(a) Involve the operation of motorized equipment between the
11 hours of the earlier of 8 p.m. or sunset and 8 a.m. within 1000 feet of
12 a residence or a campground;

13 “(b) Involve the operation of a motorized suction dredge having a
14 suction hose with an inside diameter exceeding four inches; or

15 “(c) To the extent feasible and as may be further specified in the
16 permit, involve the operation of motorized equipment in a manner
17 deleterious to freshwater mollusks, essential indigenous anadromous
18 salmonid habitat or habitat essential to the recovery and conservation
19 of Pacific lamprey.

20 “(3) The condition under subsection (2)(a) of this section may be
21 waived in a permit or permit coverage issued to the owner of a federal
22 mining claim, but only to the extent that the permit or permit cover-
23 age applicant demonstrates that the exercise of the prohibition will
24 violate federal law or constitute a regulatory taking requiring com-
25 pensation under the United States Constitution or the Oregon Consti-
26 tution. An applicant seeking a waiver must provide substantial
27 evidence specific to the mining claim in question that establishes the
28 potential violation or regulatory taking. The Department of Environ-
29 mental Quality shall review and make a determination regarding the
30 request for a waiver as part of the permit or permit coverage decision.

1 "FEES

2
3 "SECTION 6. A person shall pay the following fees to the Depart-
4 ment of Environmental Quality for a general permit issued under ORS
5 468B.050 for motorized in-stream placer mining, unless the Environ-
6 mental Quality Commission establishes a lower fee amount under ORS
7 468.065:

8 "(1) A fee of \$250 for the initial application for or renewal of permit
9 coverage; and

10 "(2) An annual fee of \$250.

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12 "PENALTIES

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14 "SECTION 7. Section 8 of this 2017 Act is added to and made a part
15 of ORS 468.922 to 468.956.

16 "SECTION 8. (1) A person commits the offense of unlawful motor-
17 ized in-stream placer mining if the person knowingly engages in mo-
18 torized in-stream placer mining, as defined in section 3 of this 2017
19 Act, without a permit issued under ORS 468B.050 or in violation of any
20 rule, permit, order or any applicable requirement adopted or issued
21 under ORS 468B.050 or sections 3 to 6 of this 2017 Act.

22 "(2) Subject to ORS 153.022, unlawful motorized in-stream placer
23 mining is a Class A violation.

24 "(3) Notwithstanding ORS 153.042, an enforcement officer, as de-
25 fined in ORS 153.005, may issue a citation under subsection (1) of this
26 section when the conduct alleged to constitute a violation has not
27 taken place in the presence of the enforcement officer, if the enforce-
28 ment officer has reasonable grounds to believe that the conduct con-
29 stitutes a violation on the basis of information received from an
30 employee of the Department of Environmental Quality.

1 **“SUCTION DREDGE STUDY FUND AND FEES**

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3 **“SECTION 9. ORS 468B.052 and sections 12 and 13, chapter 783,**
4 **Oregon Laws 2013, are repealed.**

5 **“SECTION 10. Any moneys remaining in the Suction Dredge Study**
6 **Fund established by section 13, chapter 783, Oregon Laws 2013, on the**
7 **effective date of this 2017 Act that are unexpended, unobligated and**
8 **not subject to any conditions shall be transferred by the State Treas-**
9 **urer to the credit of an account of the Department of Environmental**
10 **Quality to be used in the same manner as fees collected for permits**
11 **issued under ORS 468B.050.**

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13 **“CAPTIONS**

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15 **“SECTION 11. The unit captions used in this 2017 Act are provided**
16 **only for the convenience of the reader and do not become part of the**
17 **statutory law of this state or express any legislative intent in the**
18 **enactment of this 2017 Act.”.**

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