

Requested by Senator OLSEN

**PROPOSED AMENDMENTS TO  
SENATE BILL 644**

1 On page 1 of the printed bill, line 2, after “provisions;” delete the rest  
2 of the line and lines 3 and 4 and insert “and amending ORS 215.298.”.

3 Delete lines 6 through 29 and delete pages 2 through 23 and insert:

4 **“SECTION 1.** ORS 215.298 is amended to read:

5 **“215.298. (1) For purposes of ORS 215.213 (2) and 215.283 (2) and this**  
6 **section:**

7 **“(a) ‘Impact area’ means an area surrounding the site of a land use**  
8 **that extends 1,500 feet in any direction.**

9 **“(b)(A) ‘Mining’ includes all or any part of the process of mining**  
10 **by the removal of overburden and the extraction of natural mineral**  
11 **deposits thereby exposed by any method including open-pit mining**  
12 **operations, auger mining operations, processing, surface impacts of**  
13 **underground mining, production of surface mining refuse and the**  
14 **construction of adjacent or off-site borrow pits except those con-**  
15 **structed for use as access roads.**

16 **“(B) ‘Mining’ does not include excavations of sand, gravel, clay,**  
17 **rock or other similar materials conducted by a landowner or tenant**  
18 **on the landowner or tenant’s property for the primary purpose of re-**  
19 **construction or maintenance of access roads and excavation or grad-**  
20 **ing operations conducted in the process of farming or cemetery**  
21 **operations, on-site road construction or other on-site construction or**

1 **nonsurface impacts of underground mines.**

2 **“(c) ‘Significant mineral resource site’ means a site that:**

3 **“(A) Is located at least one mile outside of the border of the nearest**  
4 **incorporated city; and**

5 **“(B) Has an estimated quantity of mineral resources, other than**  
6 **aggregate resources, proposed for mining of 500,000 ounces or more.**

7 **“[(1)] (2)(a) Except as provided in subsection (3) of this section,** for  
8 purposes of ORS 215.213 (2) and 215.283 (2), a land use permit is required for  
9 mining more than 1,000 cubic yards of material or excavation preparatory to  
10 mining of a surface area of more than one acre. A county may set standards  
11 for a lower volume or smaller surface area than that set forth in this sub-  
12 section.

13 **“[(2)] (b) A permit for mining of aggregate shall be issued only for a site**  
14 **included on an inventory in an acknowledged comprehensive plan.**

15 **“[(3) For purposes of ORS 215.213 (2) and 215.283 (2) and this section,**  
16 ***‘mining’ includes all or any part of the process of mining by the removal of***  
17 ***overburden and the extraction of natural mineral deposits thereby exposed by***  
18 ***any method including open-pit mining operations, auger mining operations,***  
19 ***processing, surface impacts of underground mining, production of surface***  
20 ***mining refuse and the construction of adjacent or off-site borrow pits except***  
21 ***those constructed for use as access roads. ‘Mining’ does not include exca-***  
22 ***vations of sand, gravel, clay, rock or other similar materials conducted by a***  
23 ***landowner or tenant on the landowner or tenant’s property for the primary***  
24 ***purpose of reconstruction or maintenance of access roads and excavation or***  
25 ***grading operations conducted in the process of farming or cemetery operations,***  
26 ***on-site road construction or other on-site construction or nonsurface impacts***  
27 ***of underground mines.]***

28 **“(3) Notwithstanding any contrary provision of ORS 215.283 (2), in**  
29 **Baker, Grant, Harney, Lake, Malheur, Union and Wallowa Counties,**  
30 **county approval of an application for a land use permit under ORS**

1 215.283 (2)(b) for mining or excavation preparatory to mining of a sig-  
2 nificant mineral resource site on land zoned for exclusive farm use is  
3 not subject to the provisions of ORS 215.296 or any administrative rule  
4 relating to land use. A county may deny an application for a land use  
5 permit described in this subsection only if:

6 “(a) The county determines based on clear and objective standards  
7 that the proposed use will create:

8 “(A) A significant conflict with local road capacity, sight distances,  
9 horizontal or vertical alignment and cross section elements;

10 “(B) A significant safety conflict with existing public airports due  
11 to bird attractants; or

12 “(C) A significant health or safety conflict with existing residential  
13 uses within the boundaries of the impact area of the proposed use; and

14 “(b) The county determines that the conflict identified in paragraph  
15 (a) of this subsection cannot be minimized through the imposition of  
16 reasonable and practicable mitigation measures as conditions of ap-  
17 proval.

18 “SECTION 2. Sections 3 and 4 of this 2017 Act are added to and  
19 made a part of ORS 517.702 to 517.989.

20 “SECTION 3. The Legislative Assembly finds and declares that:

21 “(1) Mining on land zoned for farm or forest use is appropriate and  
22 beneficial. Because of the site-specific nature of mining and the lim-  
23 ited number of suitable mining locations, mining is considered the sole  
24 primary use of the property at a permitted mine site.

25 “(2) The site-specific nature of mineral deposits and cost of devel-  
26 oping and permitting a mine site make it difficult or impossible for a  
27 mining operation to relocate to another commercially viable mine site.

28 “(3) Because of the cost and difficulty of permitting a mine and the  
29 extensive public process required to permit a mine site, a successful  
30 applicant should be afforded protection for activities conducted within

1 the scope of the permit.

2 **“SECTION 4. (1) For purposes of a cause of action for nuisance or**  
3 **trespass against an operator of a surface mining operation located on**  
4 **land zoned for farm or forest use, the operator is not negligent and is**  
5 **not engaged in an ultrahazardous activity if the surface mining oper-**  
6 **ation is being conducted in compliance with:**

7 **“(a) An operating permit for the surface mining operation issued**  
8 **by the State Department of Geology and Mineral Industries under ORS**  
9 **517.702 to 517.989; and**

10 **“(b) All permits required for or limitations imposed on the surface**  
11 **mining operation by federal agencies, other state agencies and local**  
12 **governments.**

13 **“(2) In a cause of action for nuisance or trespass against an opera-**  
14 **tor of a surface mining operation located on land zoned for farm or**  
15 **forest use, the prevailing party is entitled to recover reasonable at-**  
16 **torney fees and costs incurred at trial and on appeal.**

17 **“SECTION 5. (1) Except as provided in subsection (2) of this section,**  
18 **section 4 of this 2017 Act applies to all causes of action, whether aris-**  
19 **ing before, on or after the effective date of this 2017 Act.**

20 **“(2) Section 4 of this 2017 Act does not apply to any cause of action**  
21 **or claim for relief for which a judgment has been entered before the**  
22 **effective date of this 2017 Act.**

23 **“SECTION 6. The State Department of Geology and Mineral Indus-**  
24 **tries shall make accessible online all data and research on the mineral**  
25 **resource potential of eastern and southern Oregon counties that is**  
26 **available to the department, including all relevant published data and**  
27 **research and mineral inventories and studies completed by the de-**  
28 **partment. Where applicable, mineral resource data available to the**  
29 **department must be presented online in a geospatial database**  
30 **format.”.**

