

# A-Engrossed House Bill 2835

Ordered by the House April 11  
Including House Amendments dated April 11

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

## 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.

*[Establishes public right to recreational use of certain public use waterways. Declares policies of State of Oregon related to recreational use of surface waters.]*

*[Authorizes use of public bridge, county road or certain state highway right of way to gain access to surface waters for recreational use.]*

*[Directs Department of State Lands to coordinate with local governments to provide increased public access to public use waterways. Requires public notification of closures of public lands access for recreational use of certain waterways.]*

*[Requires department to adopt rules.]*

*[Punishes violations by maximum of \$500 fine.]*

*[Requires Department of Transportation to consider feasibility of providing means of public access to public use waterways during design process for state highway project that includes construction of new bridge or reconstruction of existing bridge over public use waterway.]*

*[Includes recreational use of public use waterway as public use of land for purposes of limiting landowner liability.]*

*[Declares emergency, effective on passage.]*

**Requires state agencies to post notice on agency website before restricting or closing site on state public lands where public may access lands for recreational use of floatable natural waterway. Requires state agencies to report on certain activities related to public access sites.**

**Requires Department of Transportation to notify certain agencies of recommendation to fund bridge project under draft Statewide Transportation Improvement Program. Authorizes agencies to make certain recommendations to department regarding public access sites. Requires department to make certain considerations regarding public access sites near proposed bridge project.**

**Takes effect on 91st day following adjournment sine die.**

## A BILL FOR AN ACT

1  
2 Relating to recreational use of waterways; and prescribing an effective date.

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

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

5 (a) **“Public access site” means a site on state public lands where the public may access**  
6 **the lands for recreational use of a floatable natural waterway.**

7 (b) **“State public lands” means any land, or improvements thereon, owned by the State**  
8 **of Oregon.**

9 (2)(a) **Before a state agency may restrict or close access to a public access site, the**  
10 **agency shall post notice on the agency’s website for 30 days prior to the date that the re-**  
11 **striction or closure is proposed to take effect.**

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

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

**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) Fire prevention pursuant to the provisions of ORS 401.165 to 401.236 or 477.535 to  
2 477.550.

3 (C) Critical wildlife management activities.

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

5 (E) A temporary restriction or closure, if the restriction or closure is for not more than  
6 30 days.

7 (F) A temporary restriction or closure, if the restriction or closure is for routine main-  
8 tenance or construction and lasts for more than 30 days.

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

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

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

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

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

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

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

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

29 (6) This section may not be interpreted to:

30 (a) Restrict the federal navigational servitude; or

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

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

33 (a)(A) "Project" means:

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

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

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

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

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

42 (a) The proposed project is part of a project on a limited access highway or ferry termi-  
43 nal; or

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

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

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

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

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

10       **(4) The state agency that proposed the project shall consider any changes that are pro-**  
11 **posed under subsection (3) of this section but may not alter the purpose or need of the pro-**  
12 **posed project based on the proposed changes.**

13       **(5) Before the Oregon Transportation Commission approves a project for funding under**  
14 **a Statewide Transportation Improvement Program, the Department of Transportation shall**  
15 **consider, for each proposed project, estimates of:**

16       **(a) The availability of funding from the State Highway Fund and other sources for a**  
17 **public access site near the proposed project;**

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

20       **(c) Any impacts associated with siting public access near the proposed project; and**

21       **(d) Any impacts on traffic, roadways or highway safety from siting public access near the**  
22 **proposed project.**

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

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

27       **SECTION 4.** **Section 2 of this 2019 Act applies to draft Statewide Transportation Im-**  
28 **provement Programs proposed after the effective date of this 2019 Act.**

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

31