

# Senate Bill 838

Sponsored by COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

## 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**.

Imposes moratorium on certain mining using any form of motorized equipment. Punishes by maximum of one year's imprisonment, \$6,250 fine, or both. Sunsets January 2, 2018.

Directs Governor's office to study certain issues related to mining using motorized equipment.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to mining; creating new provisions; amending ORS 468B.052 and 517.123; and declaring an  
3 emergency.

4 Whereas mining using motorized equipment in the beds and banks of the rivers of Oregon has  
5 increased considerably in recent years; and

6 Whereas mining using motorized equipment in the beds and banks of the rivers of Oregon can  
7 pose significant risks to Oregon's natural resources, including fish and other wildlife and the in-  
8 vestments of this state in habitat enhancement; and

9 Whereas the number of conflicts resulting from mining using motorized equipment in the beds  
10 and banks of the rivers of Oregon has increased; and

11 Whereas the regulatory system in Oregon related to mining using motorized equipment in the  
12 beds and banks of the rivers of Oregon involves several agencies, and the agencies are unable to  
13 determine the actual amount of mining that is occurring in this state, the locations of the mining,  
14 whether best management practices are used, whether regulatory requirements are fulfilled or  
15 whether the impacts of the mining are minimized; and

16 Whereas there is a need for an enhanced and streamlined regulatory system in Oregon related  
17 to mining using motorized equipment in the beds and banks of the rivers of Oregon; now, therefore,

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

19 **SECTION 1. (1) A moratorium is imposed until January 2, 2018, on mining that uses any**  
20 **form of motorized equipment to extract gold, silver or any other precious mineral from**  
21 **placer deposits of the beds of the waters of this state, as defined in ORS 196.800, or that re-**  
22 **sults in the removal or disturbance of streamside vegetation in a manner that may impact**  
23 **water quality. The moratorium applies up to the line of ordinary high water, as defined in**  
24 **ORS 274.005, and the adjacent 100 yards of streambank, in the full length of any river and**  
25 **tributary thereof in this state, of which any portion contains essential indigenous**  
26 **anadromous salmonid habitat, as defined in ORS 196.810, or naturally reproducing popu-**  
27 **lations of bull trout.**

28 **(2) Violation of the moratorium established by subsection (1) of this section is a Class A**  
29 **misdemeanor.**

30 **SECTION 2. Section 1 of this 2013 Act is repealed on January 2, 2018.**

**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       **SECTION 3.** (1) The Governor's office, in consultation with the Department of Environ-  
 2       mental Quality, the Department of State Lands, the State Parks and Recreation Department,  
 3       the State Department of Fish and Wildlife, the Water Resources Department, other state  
 4       agencies, the federal government, federally recognized Indian tribes and affected  
 5       stakeholders shall study matters related to mining using any form of motorized equipment  
 6       to extract gold, silver or any other precious mineral from placer deposits of the beds of the  
 7       rivers of this state, and propose a revised regulatory framework that includes but is not  
 8       limited to:

9       (a) A consolidated regulatory process for mining using motorized equipment or motorized  
 10       dredge, including a single permit system.

11       (b) Effective monitoring, compliance and enforcement mechanisms related to mining us-  
 12       ing motorized equipment.

13       (c) Adequate fee structures to cover administration, monitoring, compliance and  
 14       enforcement related to any permit, license, authorization or other form of permission re-  
 15       quired by law from a state agency for mining using motorized equipment or discharges from  
 16       mining using motorized equipment.

17       (d) Operating conditions and restrictions, based on the best available science and pre-  
 18       cautionary principles, designed to protect and recover in-stream and riparian habitat impor-  
 19       tant to achieve water quality standards and the conservation and recovery of indigenous  
 20       anadromous salmonid, as defined in ORS 196.810, and naturally reproducing populations of  
 21       bull trout.

22       (e) Prohibitions on mining using any form of motorized equipment in specific areas of  
 23       this state, to the extent allowed by law, including:

24       (A) Bodies of water currently listed as water quality impaired under the Federal Water  
 25       Pollution Control Act for sediment, turbidity, toxics or heavy metals;

26       (B) Bodies of water within wilderness areas, national monuments and national botanical  
 27       areas;

28       (C) Scenic waterways in this state and bodies of water flowing through state parks; and

29       (D) Habitat that is essential to the recovery and conservation of salmon, steelhead,  
 30       lamprey, freshwater mollusks or other unique habitat values, unless protection for this  
 31       habitat may be otherwise achieved pursuant to paragraph (d) of this subsection.

32       (2) The Governor's office shall submit a report with the results of the proposed regula-  
 33       tory framework, and include recommendations for any necessary legislation, to the interim  
 34       committees of the Legislative Assembly related to environment and natural resources on or  
 35       before September 1, 2015.

36       **SECTION 4.** Section 3 of this 2013 Act is repealed on January 2, 2016.

37       **SECTION 5.** ORS 517.123 is amended to read:

38       517.123. The Legislative Assembly finds that prospecting, small scale mining and recreational  
 39       mining:

40       (1) Are important parts of the heritage of the State of Oregon; **and**

41       (2) Provide economic benefits to the state and local communities.[: *and*]

42       [(3) *Can be conducted in a manner that is not harmful and may be beneficial to fish habitat and*  
 43       *fish propagation.*]

44       **SECTION 6.** ORS 468B.052 is amended to read:

45       468B.052. Notwithstanding the authority of the Environmental Quality Commission provided in

1 ORS 468.065 to establish a schedule of fees for permits issued under ORS 468B.050 and in lieu of  
2 any fee established under the schedule of fees, a person who operates a suction dredge having a  
3 suction hose with an inside diameter of eight inches or less shall, upon application for or renewal  
4 of a permit issued under 468B.050, pay to the Department of Environmental Quality[:]

5 [(1)] for an individual permit:

6 [(a)] (1) A one-time application fee of \$300; and

7 [(b)] (2) An annual renewal fee of \$25.

8 [(2) *For a general permit, either:*]

9 [(a) *A \$25 annual fee for each year the person registers under the general permit; or*]

10 [(b) *A \$100 fee for a five-year registration under the general permit.*]

11 **SECTION 7. This 2013 Act being necessary for the immediate preservation of the public**  
12 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**  
13 **on its passage.**

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