

Senate Bill 1014

Sponsored by COMMITTEE ON RULES (at the request of Coalition for Oregon River Rights)

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**.

Establishes public right to use certain water bodies up to ordinary high water line for certain recreational purposes. Specifies limits of public right. Provides that title to land lying between ordinary high water line is unaffected. Provides that landowner is not liable for damage to natural resources caused by public use of water body.

Directs State Marine Board to develop management plan governing recreational use of water bodies. Allows modification of plan.

Directs State Marine Director to establish Floatable Water Bodies Advisory Committee. Specifies duties.

Establishes program for issuance of recreational use registrations. Directs use of registration fees by board. Specifies that portion of fees be allocated to counties for law enforcement.

Punishes violation of management plan or violation of public right by fine of up to \$180.

A BILL FOR AN ACT

1
2 Relating to floatable water bodies; creating new provisions; amending ORS 105.672, 830.140 and
3 830.150; and appropriating money.

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

5 **SECTION 1. Sections 2 to 9 of this 2005 Act are added to and made a part of ORS chapter**
6 **830.**

7 **SECTION 2. For purposes of sections 2 to 9 of this 2005 Act:**

8 (1) **"Barrier"** means a bridge, fence, dam or any other natural or artificial obstruction
9 located in or over a floatable water body that restricts or interferes with passage on or
10 through the floatable water body and that effectively obstructs the recreational use of the
11 floatable water body.

12 (2) **"Diversion"** means a physical separation for beneficial use of surface water from a
13 floatable water body into or through any:

14 (a) **Water conveyance system;**

15 (b) **Irrigation or drainage canal or ditch;**

16 (c) **Industrial, municipal or domestic water system, excluding the water body from which**
17 **the water system obtains the water;**

18 (d) **Flood control channel;**

19 (e) **Hydropower inlet or discharge facility; or**

20 (f) **Other similar works.**

21 (3) **"Floating"** means traveling across the surface of the water using a device capable of
22 supporting weight in a manner that does not require regular contact with land.

23 (4) **"Floatable water body"** means the following water bodies and the land lying between
24 the ordinary high water line associated with each water body:

25 (a) **The Alsea River drainage:**

26 (A) **The main stem of the Alsea River from its mouth upstream to the point where the**

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 river forks near river mile 43.3.
- 2 (B) Drift Creek from its confluence with the Alsea River upstream to its confluence with
3 Cougar Creek.
- 4 (b) The Ana River from Summer Lake to the Ana Reservoir.
- 5 (c) Beaver Slough in Coos County from the natural head of tide to Coaledo.
- 6 (d) The Chetco River:
- 7 (A) From its mouth at the Pacific Ocean to river mile 3.3; and
- 8 (B) From river mile 11 upstream to Upper Summer Bridge near river mile 18.8.
- 9 (e) The Coos River drainage, the Millacoma River from its confluence with the South
10 Fork Coos River to the fork near Allegany with the East and West Forks Coos River.
- 11 (f) The Coquille River drainage:
- 12 (A) The North Fork Coquille River from its confluence with the main stem Coquille River
13 upstream to river mile 18.8 at its confluence with Middle Creek.
- 14 (B) The East Fork Coquille River from its confluence with North Fork Coquille River to
15 river mile 8.
- 16 (C) The South Fork Coquille River from its confluence with the main stem Coquille River
17 upstream to the mouth of Rowland Creek near river mile 24.1.
- 18 (g) The Deschutes River drainage:
- 19 (A) The Crooked River from Lake Billy Chinook to Prineville Dam.
- 20 (B) The Deschutes River from its mouth upstream to the Wickiup Reservoir near river
21 mile 237.
- 22 (C) The Little Deschutes River from its confluence with the Deschutes River upstream
23 to Kemp Bridge, near Gilchrist.
- 24 (D) The Metolius River from Lake Billy Chinook upstream to Bridge 99.
- 25 (E) The White River from its confluence with the Deschutes River upstream to its
26 source.
- 27 (h) The Elk River in Curry County from river mile 3.4 upstream to river mile 14.
- 28 (i) Fiddle Creek from its mouth in Siltcoos Lake to river mile 5.
- 29 (j) Hood River from the bridge for Hood River Highway immediately downstream of
30 Tucker Park upstream to the confluence of the East Fork Hood River and the West Fork
31 Hood River.
- 32 (k) The John Day drainage:
- 33 (A) The John Day River:
- 34 (i) From its confluence with the Columbia River to river mile 17.5;
- 35 (ii) From river mile 22.5 to river mile 134.5; and
- 36 (iii) From river mile 135.5 to river mile 148.
- 37 (B) The North Fork John Day River from its confluence with the John Day River up-
38 stream to Big Creek.
- 39 (L) Klamath River drainage:
- 40 (A) The entire length of Crystal Creek.
- 41 (B) The Klamath River from Keno Bridge near river mile 233 upstream to Klamath Falls.
- 42 (C) The Lost River from the California border to Merrill Bridge near river mile 11.
- 43 (D) The Sprague River from its confluence with the Williamson River to the fork with
44 the North Fork Sprague River.
- 45 (E) The Sycan River from its confluence with the Sprague River upstream to Sycan

- 1 **Marsh.**
- 2 (F) The Williamson River from its mouth in Upper Klamath Lake to river mile 4.8.
- 3 (G) The Wood River from its mouth upstream to river mile 15 near Fort Klamath.
- 4 (m) Malheur Lake drainage:
- 5 (A) The Donner und Blitzen River from Malheur Lake to its confluence with Indian
- 6 Creek.
- 7 (B) The Silvies River from Burns upstream to its confluence with Emigrant Creek.
- 8 (n) The Miami River from its mouth upstream to Prouty Creek.
- 9 (o) The Necanicum River from its mouth upstream to a point near Necanicum Junction
- 10 at its confluence with Bergsvuik Creek.
- 11 (p) The Nehalem River from its mouth upstream to a point near Pittsburg at its conflu-
- 12 ence with the East Fork Nehalem River.
- 13 (q) The Nestucca River from its mouth upstream to river mile 32.5 near Rocky Bend
- 14 Campground.
- 15 (r) The New River from its mouth upstream to Floras Lake.
- 16 (s) The Pistol River from its mouth upstream to the fork with the South Fork Pistol
- 17 River.
- 18 (t) The Rogue River drainage:
- 19 (A) The Rogue River from river mile 68.4 near Grave Creek to river mile 155.5 near Big
- 20 Butte Creek.
- 21 (B) Grave Creek from its confluence with the Rogue River to its source.
- 22 (C) The Illinois River from its confluence with the Rogue River to Oak Flat.
- 23 (D) The Middle Fork Rogue River from its confluence with the South Fork Rogue River
- 24 upstream to its confluence with Red Blanket Creek.
- 25 (u) The Salmon River from its mouth at the Pacific Ocean upstream to Rose Lodge.
- 26 (v) The Sandy River drainage:
- 27 (A) The Bull Run River from its confluence with the Sandy River upstream to Bull Run
- 28 River Bridge near river mile 4.5.
- 29 (B) The Salmon River from its confluence with the Sandy River upstream to a point near
- 30 the campground at its confluence with the South Fork Salmon River.
- 31 (C) The Zigzag River from its confluence with the Sandy River to the Twin Bridges
- 32 Campground.
- 33 (w) The Siletz River from its mouth in Siletz Bay upstream to Moonshine Park near river
- 34 mile 53.
- 35 (x) The Sixes River from river mile 5.5 to river mile 10.
- 36 (y) The Siuslaw River drainage:
- 37 (A) The North Fork Siuslaw River from its mouth upstream to river mile 10.5.
- 38 (B) Lake Creek from its confluence with the Siuslaw River upstream to river mile 3.5.
- 39 (C) The main stem Siuslaw River from its mouth upstream to river mile 34.5.
- 40 (z) The Snake River drainage:
- 41 (A) Eagle Creek from its confluence with the Powder River upstream to New Bridge.
- 42 (B) The Grande Ronde River from the Washington State border upstream to its conflu-
- 43 ence with the Wallowa River near river mile 82.
- 44 (C) The Malheur River from its confluence with the Snake River upstream to a point near
- 45 Juntura at its confluence with the North Fork Malheur River.

1 (D) The North Fork Malheur River from its confluence with the main stem Malheur
 2 River to a point near the campground upstream of Stink Creek.

3 (E) The Powder River from its mouth in Brownlee Reservoir upstream to Sumpter.

4 (F) The Owyhee River from the upstream end of Lake Owyhee to Rome, near river mile
 5 167.

6 (G) The entire length of the Snake River within Oregon from near river mile 176 to near
 7 river mile 409.

8 (H) The Wallowa River from its confluence with the Grande Ronde River upstream to
 9 Minam, near river mile 10.

10 (aa) Tillamook Bay drainage:

11 (A) The Kilchis River from its mouth to Kilchis River County Park.

12 (B) Jordan Creek from its confluence with the Wilson River upstream to Phipps Creek.

13 (C) The Tillamook River from its mouth upstream to its confluence with Bewley Creek
 14 near river mile 6.7.

15 (D) The Trask River from its mouth upstream to the confluence of the North Fork Trask
 16 River and the South Fork Trask River.

17 (E) The Wilson River from its mouth upstream to the campground just upstream from
 18 its confluence with Jones Creek.

19 (bb) The Umatilla River from its confluence with the Columbia River upstream to the
 20 confluence of the North Fork Umatilla River and the South Fork Umatilla River.

21 (cc) The Umpqua River drainage:

22 (A) Cow Creek from its confluence with the South Umpqua River to its confluence with
 23 Section Creek near Glendale.

24 (B) The Little River from its confluence with the North Umpqua River to the campground
 25 near its confluence with White Creek.

26 (C) The North Umpqua River from its confluence with the main stem Umpqua River up-
 27 stream to its confluence with Rock Creek near river mile 35.5.

28 (D) The Smith River from its confluence with the Umpqua River upstream to river mile
 29 23.5 near its confluence with Spencer Creek.

30 (E) Steamboat Creek from its confluence with the North Umpqua River upstream to
 31 Steamboat Falls.

32 (dd) The Willamette River drainage:

33 (A) Abiqua Creek from its confluence with the Pudding River upstream to Abiqua Falls.

34 (B) The Breitenbush River from its mouth at Detroit Lake upstream to the confluence
 35 of the North Fork Breitenbush River and South Fork Breitenbush River.

36 (C) Butte Creek from its confluence with the Pudding River to approximately 7.3 miles
 37 upstream of Oregon Route 213 near its confluence with Coal Creek.

38 (D) The Clackamas River from its confluence with the Willamette River upstream to the
 39 River Mill Dam.

40 (E) The Coast Fork Willamette River from its confluence with the main stem Willamette
 41 River upstream to Cottage Grove Lake.

42 (F) The Collawash River from its confluence with the Clackamas River to the fork with
 43 Elk Lake Creek and the East Fork Collawash River.

44 (G) Crabtree Creek from its confluence with the Santiam River upstream to the
 45 campground near its confluence with Rock Creek.

- 1 (H) Dairy Creek from its confluence with the Tualatin River upstream to river mile 2.
- 2 (I) Fall Creek from its confluence with the Middle Fork Willamette River upstream to
3 the campground near its confluence with Bedrock Creek.
- 4 (J) The Little North Santiam River from its confluence with the North Santiam River
5 upstream to the campground near its confluence with Cougar Creek.
- 6 (K) The Long Tom River from its confluence with the Willamette River upstream to its
7 confluence with Poodle Creek near Noti.
- 8 (L) The Luckiamute River from its confluence with the Willamette River upstream to
9 Helmick State Park.
- 10 (M) Mary's River from its confluence with the Willamette River upstream to its conflu-
11 ence with Cartwright Creek near Blodgett.
- 12 (N) The McKenzie River from river mile 37 to river mile 64.
- 13 (O) The Middle Fork Santiam River from Green Peter Lake upstream to its confluence
14 with Pyramid Creek.
- 15 (P) The Middle Fork Willamette River from its confluence with the main stem Willamette
16 River to its confluence with the North Fork Willamette River near river mile 37.5.
- 17 (Q) The Mollalla River from its confluence with the main stem Willamette River to ap-
18 proximately nine miles upstream of Glen Avon at its confluence with Gawley Creek.
- 19 (R) The Mohawk River from its confluence with the McKenzie River upstream to its
20 confluence with Cartwright Creek near Marcola.
- 21 (S) The North Fork Santiam River from its confluence with the main stem Santiam River
22 upstream to Packsaddle Park near river mile 43.
- 23 (T) The Oak Grove Fork Clackamas River from its confluence with the main stem
24 Clackamas River upstream to Timothy Lake.
- 25 (U) The Pudding River from the bridge for Sunnyview Road NE near Pratum upstream
26 to its source.
- 27 (V) The Roaring River from its confluence with the Clackamas River upstream to its
28 source.
- 29 (W) The Row River from its confluence with the Coast Fork Willamette River upstream
30 to Dorena Dam.
- 31 (X) Salmon Creek from its confluence with the Middle Fork Willamette River upstream
32 to river mile 14.
- 33 (Y) The Santiam River main stem.
- 34 (Z) The South Fork Santiam River from its confluence with the main stem Santiam River
35 upstream to Foster Reservoir near river mile 38.
- 36 (AA) The South Yamhill River from its confluence with the Yamhill River upstream to
37 McMinnville at river mile 6.
- 38 (BB) Thomas Creek from its confluence with the South Fork Santiam River upstream to
39 Thomas Creek Falls.
- 40 (CC) The Tualatin River from its confluence with the Willamette River upstream to
41 Forest Grove at river mile 56.5.
- 42 (DD) The Yamhill River from its confluence with the Willamette River upstream to its
43 forks.
- 44 (ee) The Winchuck River from its mouth upstream to Wheeler Creek.
- 45 (ff) The Yaquina River from its mouth upstream to Nashville.

1 (5) "Landowner" means a person who holds record title to or an interest in real property.

2 (6) "Ordinary high water line" means the line that water impresses on land by covering
 3 it for sufficient time to cause changes in the physical characteristics of the land, the absence
 4 or growth of terrestrial or aquatic vegetation and the deposit of organic material, in a
 5 manner and to an extent that a reasonable person would be able to distinguish the area be-
 6 low the line from the area above the line.

7 (7) "Recreational use" means participation in water-dependent activities and incidental
 8 uses connected with those activities, and fishing, hunting, swimming, floating, boating, wad-
 9 ing, anchoring and walking.

10 **SECTION 3.** (1) For purposes of this section, "prescriptive easement" means the right
 11 of a person to use the property of another person that is acquired by open, exclusive, noto-
 12 rious, hostile, adverse, continuous and uninterrupted use of the property for at least five
 13 years.

14 (2) The provisions of sections 2 to 9 of this 2005 Act do not affect the title to or ownership
 15 of:

- 16 (a) The surface water contained within a floatable water body;
- 17 (b) The land lying below the ordinary high water line of any floatable water body; or
- 18 (c) The established portage routes within the state.

19 (3) A person may not acquire a prescriptive easement through:

20 (a) The recreational use of a floatable water body, including the land lying below the or-
 21 dinary high water line and routes for portaging around barriers; or

22 (b) Entering or crossing the property of a landowner to access a floatable water body.

23 (4) The ability to make recreational use of floatable water bodies pursuant to section 4
 24 of this 2005 Act does not grant any easement or right to enter onto or cross property in
 25 order to make recreational use of a floatable water body unless:

26 (a) The easement or right existed prior to the effective date of this 2005 Act; or

27 (b) The reason for the entry onto or the crossing of the property is to portage around a
 28 barrier.

29 (5) Nothing in sections 2 to 9 of this 2005 Act affects:

30 (a) The right of a landowner to engage in a farming practice, as defined in ORS 30.930.

31 (b) Any treaty or right of any Indian tribe.

32 (c) Land held in trust by the United States for Indian tribes or individual members of
 33 Indian tribes.

34 (d) The recreational use of the surface waters of lakes, ponds and other confined water
 35 bodies.

36 (e) The rights or responsibilities established under a management plan for a floatable
 37 water body adopted pursuant to the federal Wild and Scenic Rivers Act (P.L. 90-542).

38 (6) Landowners affected by sections 2 to 9 of this 2005 Act are not liable for damage to
 39 environmental values, including habitat, fish, wildlife and water quality, caused by persons
 40 using a floatable water body for recreational use, including using portage routes.

41 **SECTION 4.** (1) Except as provided in this section, a person may use any floatable water
 42 body for recreational use without regard to ownership of the land lying below the ordinary
 43 high water line.

44 (2) Without the express permission of or a contractual agreement with the landowner
 45 on whose land the use would occur, a person may not use a floatable water body for any of

1 the following:

2 (a) Operating a motorized vehicle, including an off-highway vehicle, that is not primarily
3 designed for floating.

4 (b) Hunting, except by recurve bow or shotgun and only when specifically authorized by
5 the State Department of Fish and Wildlife.

6 (c) Overnight camping.

7 (d) Building fires.

8 (e) Disposing of human waste.

9 (f) Placing or creating any permanent or seasonal structure, including a duck blind or
10 boat moorage.

11 (g) Recreational use when there is no flowing water within the floatable water body.

12 (h) Any activity that is not a recreational use.

13 (3) Without the express permission of or a contractual agreement with the landowner
14 on whose land the recreational use would occur, a person may not make recreational use of:

15 (a) A private impoundment, even if fed by a floatable water body; or

16 (b) A water body resulting from diversion.

17 (4) A person may not make recreational use of a floatable water body if the use has been
18 limited, restricted or excluded by a statewide management plan adopted by the State Marine
19 Board pursuant to section 6 of this 2005 Act.

20 (5) A person may not use a floatable water body for a recreational use that involves
21 floating by means of a craft or device of any kind unless the person:

22 (a) Displays a valid, effective certificate of number issued pursuant to ORS 830.790;

23 (b) Displays a nonmotorized vessel certificate of number issued pursuant to section 11
24 of this 2005 Act;

25 (c) Holds a valid, effective recreational use registration issued pursuant to section 7 of
26 this 2005 Act;

27 (d) Holds a valid federal river use fee permit on designated river sections that are ad-
28 ministered by an agency of the federal government; or

29 (e) Is using a craft operated by or under the supervision of an outfitter and guide regis-
30 tered with the State Marine Board under ORS 704.020.

31 **SECTION 5.** (1) Except as provided in this section, a person making recreational use of
32 a floatable water body may not enter or remain on the property of a landowner above the
33 ordinary high water line.

34 (2) A person making recreational use of a floatable water body may enter the property
35 of a landowner to portage around a barrier if safe passage around the barrier cannot be ac-
36 complished using land below the ordinary high water line. If a person enters property to
37 portage around a barrier, the person shall:

38 (a) Travel using the shortest possible route around the barrier;

39 (b) Perform the portage in the least intrusive manner possible;

40 (c) Remain on land above the ordinary high water line for only the time necessary to
41 complete the portage; and

42 (d) Avoid damaging the landowner's property.

43 (3) It is an affirmative defense to a charge of criminal trespass under ORS 164.245, 164.255
44 or 164.265 that a person making recreational use of a floatable water body entered property
45 to portage around a barrier and complied with the requirements of this section.

1 (4) A person portaging around a barrier is liable for actual damage caused to the land-
 2 owner's property.

3 **SECTION 6.** (1) The State Marine Board shall adopt by rule a statewide management plan
 4 to govern the recreational use of floatable water bodies under sections 2 to 9 of this 2005
 5 Act. The management plan shall include:

6 (a) A procedure for adding, modifying or excluding the time, manner, type and extent of
 7 the recreational use of a floatable water body; and

8 (b) A procedure for adding to or modifying the list of floatable water bodies defined pur-
 9 suant to section 2 of this 2005 Act.

10 (2) The department shall, from time to time, review the management plan for possible
 11 modification.

12 **SECTION 7.** (1) The State Marine Board shall establish a program for the issuance of
 13 recreational use registrations. The program shall include provisions for:

14 (a) The issuance of a transferable recreational use registration that allows the holder to
 15 use any nonmotorized craft on a floatable water body.

16 (b) The designation of agents of the board for the purpose of issuing recreational use
 17 registrations.

18 (c) The assessment of a \$20 annual fee for the recreational use registration.

19 (2) Fees collected by the board or its designated agents for the issuance of recreational
 20 use registrations shall be paid into the Boating Safety, Law Enforcement and Facility Ac-
 21 count, except that the board may designate that an agent other than a board employee may
 22 retain a portion of the fee for the issuance service performed by the agent.

23 (3) As part of the program established under this section, the board may:

24 (a) Develop and disseminate information and educational materials regarding recreational
 25 use of specific floatable water bodies, including designated portage routes, public boat
 26 launching areas and recreational facilities located on or near the water body.

27 (b) Develop and maintain recreational facilities on or near floatable water bodies.

28 (c) Acquire, by purchase or lease, land for the purpose of developing recreational facili-
 29 ties on or near floatable water bodies.

30 **SECTION 8.** (1) The State Marine Director shall appoint a Floatable Water Bodies Advi-
 31 sory Committee to advise and aid the director and the State Marine Board in the adminis-
 32 tration of sections 2 to 9 of this 2005 Act.

33 (2) The advisory committee shall be composed of seven members appointed by the direc-
 34 tor from the following interests:

35 (a) Three members who represent riparian landowners.

36 (b) Three members who represent recreational interest groups.

37 (c) One member who represents the general public.

38 (3) The advisory committee shall have a primary responsibility to:

39 (a) Regularly review the list of floatable water bodies specified in section 2 of this 2005
 40 Act;

41 (b) Seek out and serve as a repository for information on the recreational use of floatable
 42 water bodies, on any conflict between landowners and recreational users and on proposed
 43 modifications to the recreational uses allowed; and

44 (c) Propose to the board suggestions for adding, modifying or excluding the time, manner,
 45 type and extent of the recreational use of a floatable water body or for adding to or modify-

1 ing the list of floatable water bodies.

2 (4) Members of the advisory committee are not entitled to compensation, but at the dis-
3 cretion of the director may be reimbursed from funds available to the board for actual and
4 necessary travel and other expenses incurred in the performance of their official duties in
5 the manner and amount provided in ORS 292.495.

6 **SECTION 9.** (1) The Floatable Water Bodies Subaccount is established within the Boating
7 Safety, Law Enforcement and Facilities Account. The subaccount shall consist of moneys
8 deposited into the subaccount by the State Marine Board from fees collected pursuant to
9 sections 7 and 11 of this 2005 Act. The moneys in the subaccount are continuously appropri-
10 ated to the board for the purposes specified in this section.

11 (2) The board shall use the moneys in the subaccount for:

12 (a) Operating the recreational use registration program established pursuant to section
13 7 of this 2005 Act;

14 (b) Developing and revising the statewide management plan adopted pursuant to section
15 6 of this 2005 Act;

16 (c) Providing law enforcement services related to floatable water bodies;

17 (d) Providing information and education regarding recreational use of floatable water
18 bodies;

19 (e) Developing and maintaining recreational facilities on or near floatable water bodies;

20 (f) Improving and maintaining access to floatable water bodies for nonmotorized recre-
21 ational uses; and

22 (g) Any other purpose that the board determines is appropriate for the maintenance,
23 enhancement or protection of the natural and scenic resources of floatable water bodies.

24 (3) The board shall determine the amount of money required for law enforcement ser-
25 vices on floatable water bodies in each county. Funds available in the subaccount shall be
26 apportioned according to the amounts required and distributed under contracts entered into
27 with the Department of State Police, a city police department or with the sheriff of the
28 county. A contract with a city or a sheriff shall be entered into only with the approval of the
29 governing body of the city or county. The board shall determine the intervals at which the
30 moneys shall be distributed.

31 **SECTION 10.** Section 11 of this 2005 Act is added to and made a part of ORS 830.700 to
32 830.870.

33 **SECTION 11.** (1) The owner of a boat that is not a motorboat nor a sailboat of 12 feet in
34 length or more may, without securing a certificate of title, register the boat with the State
35 Marine Board and obtain a nonmotorized vessel certificate of number.

36 (2) Upon submission of an application in a form approved by the board, the board shall
37 issue to the owner a nonmotorized vessel certificate of number. The certificate shall state
38 the name and address of the owner, a description of the boat, the issue date and expiration
39 date.

40 (3) Along with the certificate, the board shall issue a validation sticker or tag. The owner
41 shall affix the sticker or tag to the boat so that the sticker or tag is visible for inspection.

42 (4) The biennial fee for a nonmotorized vessel certificate of number is \$30.

43 (5) A nonmotorized vessel certificate of number expires on December 31 of the year in-
44 dicated on the certificate.

45 **SECTION 12.** ORS 105.672 is amended to read:

1 105.672. As used in ORS 105.672 to 105.696:

2 (1) "Charge" means the admission price or fee asked by any owner in return for permission to
 3 enter or go upon the owner's land.

4 (2) "Harvest" has that meaning given in ORS 164.813.

5 (3) "Land" includes all real property, whether publicly or privately owned.

6 (4) "Owner" means the possessor of any interest in any land, including but not limited to pos-
 7 session of a fee title. "Owner" includes a tenant, lessee, occupant or other person in possession of
 8 the land.

9 (5) "Recreational purposes" includes, but is not limited to, outdoor activities such as hunting,
 10 fishing, swimming, boating, camping, picnicking, hiking, nature study, outdoor educational activities,
 11 waterskiing, winter sports, **recreational use of floatable water bodies pursuant to section 4 of**
 12 **this 2005 Act**, viewing or enjoying historical, archaeological, scenic or scientific sites or volun-
 13 teering for any public purpose project.

14 (6) "Special forest products" has that meaning given in ORS 164.813.

15 (7) "Woodcutting" means the cutting or removal of wood from land by an individual who has
 16 obtained permission from the owner of the land to cut or remove wood.

17 **SECTION 13.** ORS 830.140 is amended to read:

18 830.140. (1) On or before the 10th day of each month, the State Marine Board shall pay into the
 19 State Treasury[, *except as provided in ORS 830.926,*] all moneys received by the board during the
 20 preceding calendar month. The State Treasurer shall credit the moneys to the Boating Safety, Law
 21 Enforcement and Facility Account, which account hereby is created, separate and distinct from the
 22 General Fund. The moneys in the account hereby are continuously appropriated to the board for the
 23 purpose of paying the expense of administering and enforcing the provisions of this chapter. The
 24 board shall keep a record of all moneys received and expended.

25 **(2) The board shall determine the amount of moneys deposited in the account that come**
 26 **from fees collected pursuant to ORS 830.790 and 830.850 and deposit such moneys into the**
 27 **Abandoned Boat Removal and Cleanup Subaccount.**

28 **(3) The board shall determine the amount of moneys deposited in the account that come**
 29 **from persons paying fees for nonmotorized vessel certificates of number pursuant to section**
 30 **11 of this 2005 Act and that come from persons paying fees for recreational use registrations**
 31 **pursuant to section 7 of this 2005 Act and deposit those moneys in the Floatable Water**
 32 **Bodies Subaccount.**

33 [(2)] (4) After paying the necessary expenses incurred by the board in administering this chap-
 34 ter, the funds available in the account shall be distributed, in the amounts required, for the purpose
 35 of enforcing the provisions of this chapter and the regulations adopted pursuant thereto. The board
 36 shall determine the amount required for enforcement in each county, considering the survey con-
 37 ducted under ORS 830.115. The funds available shall be apportioned according to the amounts re-
 38 quired and distributed, for enforcement in each county where there is a need, under a contract
 39 entered into with a city, with the Department of State Police or with the sheriff of the county. A
 40 contract with a city or a sheriff shall be entered into only with the approval of the governing body
 41 of the city or county. The board shall determine the intervals at which the moneys shall be dis-
 42 tributed.

43 [(3)] (5) The governing body of any county having within its boundaries a city providing recre-
 44 ational boating facilities including launching ramps, may contract with the city for the purpose of
 45 enforcing the provisions of this chapter and the rules and regulations made pursuant thereto.

1 [(4)] (6) If the city enters into a contract with the board or with a county, the county is relieved
 2 of its enforcement responsibilities within the city as agreed to by the county and the city or by the
 3 board and the city.

4 **SECTION 14.** ORS 830.150 is amended to read:

5 830.150. (1) Amounts remaining in the Boating Safety, Law Enforcement and Facility Account
 6 in excess of funds obligated under ORS 830.140 [(2)] shall be distributed, upon application, to the
 7 state, a city, county, water improvement district, park and recreation district or a port. Distribution
 8 shall be made on the basis of need for a facility as that need appears to the State Marine Board.

9 (2)(a) In distributing funds under subsection (1) of this section, the board shall give first priority
 10 to applications for facilities designed to control water pollution or otherwise enhance water quality,
 11 including but not limited to pumping stations for recreational boat holding tanks, and to those other
 12 facilities for which there appears the greatest public need.

13 (b) Subject to paragraph (a) of this subsection, the board may distribute funds for:

14 (A) Construction and maintenance of boating facilities, for the acquisition of property therefor,
 15 and other related facilities such as parking, potable water, sanitation and other facilities for the
 16 convenience of the public using the boating facilities; and

17 (B) Removal of derelict structures floating upon and abandoned dock or boat mooring facilities
 18 situated in, upon or over the waters of this state if such structures or facilities constitute a hazard
 19 to boating upon such waters.

20 (3) Prior to making any distribution of funds under this section, the board shall hold a public
 21 hearing in the area where a facility is to be constructed or land acquired if in the judgment of the
 22 board, use of the facility would stimulate significant change in the character of the recreational use
 23 of the waters.

24 (4) The board shall make no distribution of funds under this section for construction or acqui-
 25 sition if in the judgment of the board the applicant has not included in the construction or acquisi-
 26 tion plans adequate provision for protecting the quality of the waters affected by the plans. The
 27 board's denial of any application under this subsection must include specific notice to the applicant
 28 of the point or points of the plan that are found by the board to be inadequate.

29 **SECTION 15. A person commits a Class C violation if the person violates:**

30 (1) **Section 4 of this 2005 Act; or**

31 (2) **Any rule of the State Marine Board adopted pursuant to section 6 of this 2005 Act.**

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