

SB 1517-2  
(LC 199)  
2/2/16 (MAM/ps)

Requested by SENATE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

**PROPOSED AMENDMENTS TO  
SENATE BILL 1517**

1 On page 1 of the printed bill, line 2, delete “196.816,”.

2 On page 2, line 37, delete the boldfaced material and after “wetlands”  
3 insert “that meet the requirements of section 6 of this 2016 Act”.

4 On page 6, after line 24, insert:

5 “(z) Creation, restoration or enhancement of wetlands that do not meet  
6 the requirements of section 6 of this 2016 Act.”.

7 On page 11, line 21, delete the boldfaced material and after “wetlands”  
8 insert “that meet the requirements of section 6 of this 2016 Act”.

9 On page 15, after line 35, insert:

10 “(z) Creation, restoration or enhancement of wetlands that do not meet  
11 the requirements of section 6 of this 2016 Act.”.

12 On page 20, line 19, delete the boldfaced material and after “wetlands”  
13 insert “that meet the requirements of section 6 of this 2016 Act”.

14 On page 24, after line 6, insert:

15 “(bb) Creation, restoration or enhancement of wetlands that do not meet  
16 the requirements of section 6 of this 2016 Act.”.

17 On page 27, line 24, delete the boldfaced material and after “wetlands”  
18 insert “that meet the requirements of section 6 of this 2016 Act”.

19 On page 31, after line 38, insert:

20 “(bb) Creation, restoration or enhancement of wetlands that do not meet  
21 the requirements of section 6 of this 2016 Act.”.

1 On page 34, delete lines 11 through 20 and insert:

2 **“SECTION 5. Section 6 of this 2016 Act is added to and made a part**  
3 **of ORS chapter 215.**

4 **“SECTION 6. (1) As used in this section:**

5 **“(a) ‘Converted wetlands’ has the meaning given that term in ORS**  
6 **196.905.**

7 **“(b) ‘Mitigation bank’ has the meaning given that term in ORS**  
8 **196.600.**

9 **“(c) ‘Reclamation’ has the meaning given that term in ORS 517.750.**

10 **“(d) ‘Surface mining’ has the meaning given that term in ORS**  
11 **517.750.**

12 **“(e) ‘Wetlands’ has the meaning given that term in ORS 196.800.**

13 **“(2) Wetlands may be created, restored or enhanced under ORS**  
14 **215.213 (1)(o) or 215.283 (1)(m):**

15 **“(a) In an area lying east of the summit of the Coast Range;**

16 **“(b) In an area lying west of the summit of the Coast Range that**  
17 **is located in a county where the total area of wetlands and aquatic**  
18 **habitat on land zoned for exclusive farm use in the county, as reported**  
19 **in an inventory maintained by the National Resources Conservation**  
20 **Service of the United States Department of Agriculture, or its suc-**  
21 **cessor agency, has not increased by more than \_\_\_\_ percent since 1992;**  
22 **or**

23 **“(c) In an area lying west of the summit of the Coast Range that**  
24 **is located in a county where the total area of wetlands and aquatic**  
25 **habitat on land zoned for exclusive farm use in the county, as reported**  
26 **in an inventory maintained by the National Resources Conservation**  
27 **Service of the United States Department of Agriculture, or its suc-**  
28 **cessor agency, has increased by more than \_\_\_\_ percent since 1992, if:**

29 **“(A) The owners or authorized land managers of parcels imme-**  
30 **diately adjacent to, or that may be reasonably anticipated to be af-**

1 **ected by, the creation, restoration or enhancement of wetlands have**  
2 **consented, in writing, to the activity; or**

3 **“(B) The creation, restoration or enhancement of wetlands will not**  
4 **materially damage or reduce the effectiveness of existing agricultural**  
5 **drainage infrastructure or farm roads associated with parcels imme-**  
6 **diately adjacent to, or that may be reasonably anticipated to be af-**  
7 **ected by, the wetlands, or result in an increase in costs to the owners**  
8 **of immediately adjacent parcels of more than \$500 per year.**

9 **“(3) Subsection (2)(c) of this section does not authorize the creation,**  
10 **restoration or enhancement of wetlands under ORS 215.213 (1)(o) or**  
11 **215.283 (1)(m):**

12 **“(a) For purposes related to a mitigation bank.**

13 **“(b) For reclamation of lands affected by surface mining.**

14 **“(c) That are converted wetlands or farmed wetlands, so long as**  
15 **commercial agricultural production on the land has not been aban-**  
16 **doned for five or more years.”.**

17 Delete lines 25 through 45 and insert:

18 **“SECTION 7.** ORS 496.270 is amended to read:

19 **“496.270. (1) The Legislative Assembly declares that it is the policy of the**  
20 **State of Oregon to encourage operators, timber owners and landowners to**  
21 **voluntarily improve fish and wildlife habitat. In order to carry out this pol-**  
22 **icy, the Legislative Assembly encourages cooperation among operators, tim-**  
23 **ber owners and landowners and other volunteers.**

24 **“(2) Consistent with the limitations of ORS 105.672 to 105.696, a land-**  
25 **owner is not liable in contract or tort for any personal injury, death or**  
26 **property damage that arises out of the use of the land by:**

27 **“(a) A volunteer conducting a fish and wildlife habitat improvement**  
28 **project; or**

29 **“(b) A participant of a state-funded or federally funded watershed or**  
30 **stream restoration or enhancement program.**

1 “(3) An operator, timber owner or landowner [*shall not*] **may not** be held  
2 liable for any damages resulting from:

3 “(a) A fish and wildlife habitat improvement project done in cooperation  
4 and consultation with the State Department of Fish and Wildlife or the  
5 Oregon Watershed Enhancement Board, or conducted as part of a forest  
6 management practice in accordance with ORS 527.610 to 527.770, 527.990 and  
7 527.992; or

8 “(b) Leaving large woody debris within the waters of this state to protect,  
9 retain and recruit large woody debris for the purposes of fish habitat and  
10 water quality improvement.

11 “(4)(a) The limitations to liability provided by subsections (2) and (3) of  
12 this section do not apply if:

13 “(A) The damages, injury or death was caused by willful, wanton or in-  
14 tentional conduct on the part of the operator, timber owner or landowner  
15 or by the gross negligence of the operator, timber owner or landowner.

16 “(B) **For a project or portion of a project for the creation, restora-**  
17 **tion or enhancement of wetlands, the operator, timber owner or**  
18 **landowner has not provided sufficient notice of the project to owners**  
19 **of the land that is immediately adjacent to the land on which the**  
20 **project occurs.**

21 “(b) As used in this subsection:

22 “(A) ‘Gross negligence’ means negligence which is materially greater  
23 than the mere absence of reasonable care under the circumstances, and  
24 which is characterized by indifference to or reckless disregard of the rights  
25 of others.

26 “(B) ‘Sufficient notice’ means written notice, through a regulatory  
27 process or otherwise, that is provided at least 90 days before the start  
28 of construction on a wetlands creation, restoration or enhancement  
29 project.

30 “(C) ‘Wetlands’ has the meaning given that term in ORS 196.800.

1       “(5) The limitation on liability provided by subsection (3) of this section  
2 does not apply to claims for death or personal injuries.

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4

**“CAPTIONS”.**

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6       On page 35, delete lines 1 through 17.

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