

Senate Bill 544

Sponsored by Senator JOHNSON (at the request of Chad Allen)

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**.

Eliminates limitation on liability for damages resulting from certain fish and wildlife habitat improvement projects and watershed or stream restoration or enhancement programs.

A BILL FOR AN ACT

1
2 Relating to liability for damages resulting from habitat or water quality improvement projects;
3 amending ORS 496.270.

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

5 **SECTION 1.** ORS 496.270 is amended to read:

6 496.270. (1) The Legislative Assembly declares that it is the policy of the State of Oregon to
7 encourage [*operators, timber owners and*] landowners to voluntarily improve fish and wildlife habitat.
8 In order to carry out this policy, the Legislative Assembly encourages cooperation among [*operators,*
9 *timber owners and*] landowners and [*other*] volunteers.

10 (2) Consistent with the limitations of ORS 105.672 to 105.696, a landowner is not liable in con-
11 tract or tort for any personal injury[, **or** death [*or property damage*] that arises out of the use of
12 the land by:

13 (a) A volunteer conducting a fish and wildlife habitat improvement project; or

14 (b) A participant of a state-funded or federally funded watershed or stream restoration or en-
15 hancement program.

16 [*(3) An operator, timber owner or landowner shall not be held liable for any damages resulting*
17 *from.*]

18 [*(a) A fish and wildlife habitat improvement project done in cooperation and consultation with the*
19 *State Department of Fish and Wildlife or the Oregon Watershed Enhancement Board, or conducted as*
20 *part of a forest management practice in accordance with ORS 527.610 to 527.770, 527.990 and 527.992;*
21 *or*]

22 [*(b) Leaving large woody debris within the waters of this state to protect, retain and recruit large*
23 *woody debris for the purposes of fish habitat and water quality improvement.*]

24 [(4)] **(3)** The limitations [*to*] **on** liability provided by [*subsections (2) and (3)*] **subsection (2)** of
25 this section do not apply if the [*damages,*] injury or death was caused by willful, wanton or inten-
26 tional conduct on the part of the [*operator, timber owner or*] landowner or by the gross negligence
27 of the [*operator, timber owner or*] landowner. As used in this subsection, "gross negligence" means
28 negligence which is materially greater than the mere absence of reasonable care under the circum-
29 stances, and which is characterized by indifference to or reckless disregard of the rights of others.

30 [(5)] *The limitation on liability provided by subsection (3) of this section does not apply to claims*
31 *for death or personal injuries.*]

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 2.** The amendments to ORS 496.270 by section 1 of this 2015 Act apply to ac-
2 tivities conducted as part of a fish and wildlife habitat improvement project or of a watershed
3 or stream restoration or enhancement program, that occur on or after the effective date of
4 this 2015 Act.

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