

**A-Engrossed**  
**House Bill 2185**

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

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Presession filed (at the request of Governor Theodore R. Kulongoski for Department of Human Services)

**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.

Authorizes Director of Human Services to appoint Public Health Director. Defines duties of Public Health Director. Establishes authority of Public Health Director, State Public Health Authority and local public health authority to take certain actions during public health emergency. Modifies authority of Governor to take certain actions during state of public health emergency. **Authorizes Public Health Director to adopt rules governing the development of emergency plans and incident management system.**

Modifies circumstances and procedures for imposing quarantine or isolation.

**A BILL FOR AN ACT**

1  
2 Relating to public health; creating new provisions; amending ORS 401.657, 401.661, 431.035, 433.001,  
3 433.004, 433.009, 433.035, 433.040, 433.140, 433.156, 433.216, 433.220, 433.390, 433.441, 433.443,  
4 433.446, 433.448, 433.452, 433.735, 433.755, 433.765, 433.767, 433.855, 433.865, 433.875, 433.990 and  
5 466.605; and repealing ORS 431.140, 433.019, 433.022, 433.106, 433.130 and 433.135.

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

7 **SECTION 1.** ORS 431.035 is amended to read:

8 431.035. (1) The Director of Human Services may delegate to any of the officers and employees  
9 of the Department of Human Services the exercise or discharge in the director's name of any power,  
10 duty or function of whatever character vested in or imposed upon the director by the laws of  
11 Oregon. However, the power to administer oaths and affirmations, subpoena witnesses, take evidence  
12 and require the production of books, papers, correspondence, memoranda, agreements or other doc-  
13 uments or records may be exercised by an officer or employee of the department only when specif-  
14 ically delegated in writing by the director.

15 (2) The official act of any such person so acting in the director's name and by the authority of  
16 the director shall be deemed to be an official act of the director.

17 **(3)(a) The Director of Human Services shall appoint a Public Health Director to perform**  
18 **the duties and exercise authority over public health emergency matters in the state and**  
19 **other duties as assigned by the Director of Human Services. The Director of Human Services**  
20 **may appoint the same person to serve as both the Public Health Director and the Public**  
21 **Health Officer appointed under ORS 431.045.**

22 **(b) The Public Health Director shall be an assistant director appointed by the Director**  
23 **of Human Services in accordance with ORS 409.130.**

24 **(c) The Public Health Director shall delegate to an employee of the department the du-**  
25 **ties, powers and functions granted to the Public Health Director by section 5 of this 2007**

**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 Act and ORS 433.443 in the event of the absence from the state or the unavailability of the  
2 director. The delegation must be in writing.

3 **SECTION 2.** Sections 3 to 5 of this 2007 Act are added to and made a part of ORS 431.035  
4 to 431.530.

5 **SECTION 3.** As used in ORS 431.035 to 431.530:

6 (1) "Children's facility" has the meaning given that term in ORS 433.235.

7 (2) "Communicable disease" means a disease or condition, the infectious agent of which  
8 may be transmitted by any means from one person or from an animal to another person,  
9 that may result in illness, death or severe disability.

10 (3) "Condition of public health importance" means a disease, syndrome, symptom, injury  
11 or other threat to public health that is identifiable on an individual or community level.

12 (4) "Disease outbreak" means a significant or notable increase in the number of cases  
13 of a disease or other condition of public health importance.

14 (5) "Epidemic" means the occurrence in a community or region of a group of similar  
15 conditions of public health importance that are in excess of normal expectancy and derived  
16 from a common or propagated source.

17 (6) "Local public health administrator" means the public health administrator of a county  
18 or health district appointed under ORS 431.418 or the authorized representative of that public  
19 health administrator.

20 (7) "Local public health authority" means a county government, or a health district cre-  
21 ated under ORS 431.414 or a person or agency a county or health district has contracted with  
22 to act as the local public health authority.

23 (8) "Public health law" means any statute, rule or local ordinance that has the purpose  
24 of promoting or protecting the public health and that establishes the authority of the De-  
25 partment of Human Services, the Public Health Director, the Public Health Officer, a local  
26 public health authority or local public health administrator to enforce the statute, rule or  
27 local ordinance.

28 (9) "Public health measure" means a test, medical examination, treatment, isolation,  
29 quarantine or other measure imposed on an individual or group of individuals in order to  
30 prevent the spread of or exposure to a communicable disease, toxic substance or  
31 transmissible agent.

32 (10) "Reportable disease" means a disease or condition, the reporting of which enables a  
33 public health authority to take action to protect or to benefit the public health.

34 (11) "School" has the meaning given that term in ORS 433.235.

35 (12) "Specimen" means blood, sputum, urine, stool or other bodily fluids and wastes, tis-  
36 sues, and cultures necessary to perform required tests.

37 (13) "Test" means any diagnostic or investigative analyses or medical procedures that  
38 determine the presence or absence of, or exposure to, a condition of potential public health  
39 importance, or its precursor in an individual.

40 (14) "Toxic substance" means a substance that may cause illness, disability or death to  
41 persons who are exposed to it.

42 **SECTION 4.** (1) The Department of Human Services and local public health administra-  
43 tors shall have the power to enforce public health laws. The enforcement powers authorized  
44 by this section include, but are not limited to, the authority to:

45 (a) Investigate possible violations of public health laws;

1 (b) Issue subpoenas requiring testimony or the production of physical or other evidence;

2 (c) Issue administrative orders to enforce compliance with public health laws;

3 (d) Issue a notice of violation of a public health law and impose a civil penalty as estab-  
4 lished by rule not to exceed \$500 a day per violation;

5 (e) Enter private property at any reasonable time with consent of the owner or custodian  
6 of the property to inspect, investigate, evaluate or conduct tests, or take specimens or  
7 samples for testing, as may be reasonably necessary to determine compliance with any public  
8 health law;

9 (f) Enter a public place to inspect, investigate, evaluate, conduct tests, or take specimens  
10 or samples for testing as may be reasonably necessary to determine compliance with the  
11 provisions of any public health law;

12 (g) Seek an administrative warrant from an appropriate court authorizing the inspection,  
13 investigation, evaluation or testing, or taking of specimens or samples for testing, if denied  
14 entry to property;

15 (h) Restrict access to contaminated property;

16 (i) Require removal or abatement of a toxic substance on any property and prescribe the  
17 proper measures for the removal or abatement;

18 (j) Maintain a civil action to enforce compliance with public health laws, including a pe-  
19 tition to a court for an order imposing a public health measure appropriate to the public  
20 health threat presented;

21 (k) Refer any possible criminal violations of public health laws to a district attorney or  
22 other appropriate law enforcement official; and

23 (L) Request the Attorney General to assist in the enforcement of the public health laws.

24 (2) Any administrative actions undertaken by the state under this section shall comply  
25 with the provisions of ORS chapter 183.

26 (3) State and local law enforcement officials, to the extent resources are available, must  
27 assist the Department of Human Services and local public health administrators in ensuring  
28 compliance with administrative or judicial orders issued pursuant to this section.

29 (4) Nothing in this section shall be construed to limit any other enforcement authority  
30 granted by law to a local public health authority or to the state.

31 **SECTION 5.** (1) Unless the Governor has declared a public health emergency under ORS  
32 433.441, the Public Health Director may, upon approval of the Governor or the designee of  
33 the Governor, take the public health actions described in subsection (2) of this section if the  
34 Public Health Director determines that:

35 (a)(A) A communicable disease, reportable disease, disease outbreak, epidemic or other  
36 condition of public health importance has affected more than one county;

37 (B) There is an immediate need for a consistent response from the state in order to ad-  
38 equately protect the public health;

39 (C) The resources of the local public health authority or authorities are likely to be  
40 quickly overwhelmed or unable to effectively manage the required response; and

41 (D) There is a significant risk to the public health; or

42 (b) A communicable disease, reportable disease, disease outbreak, epidemic or other  
43 condition of public health importance is reported in Oregon and is an issue of significant  
44 regional or national concern or is an issue for which there is significant involvement from  
45 federal authorities requiring state-federal coordination.

1           **(2) The Public Health Director, after making the determinations required under sub-**  
2 **section (1) of this section, may take the following public health actions:**

3           **(a) Coordinate the public health response across jurisdictions.**

4           **(b) Prescribe measures for the:**

5           **(A) Identification, assessment and control of the communicable disease or reportable**  
6 **disease, disease outbreak, epidemic or other condition of public health importance; and**

7           **(B) Allocation and distribution of antitoxins, serums, vaccines, immunizing agents, anti-**  
8 **biotics, antidotes and other pharmaceutical agents, medical supplies or personal protective**  
9 **equipment.**

10          **(c) After consultation with appropriate medical experts, create and require the use of**  
11 **diagnostic and treatment guidelines and provide notice of those guidelines to health care**  
12 **providers, institutions and facilities.**

13          **(d) Require a person to obtain treatment and use appropriate prophylactic measures to**  
14 **prevent the introduction or spread of a communicable disease or reportable disease, unless:**

15           **(A) The person has a medical diagnosis for which a vaccination is contraindicated; or**

16           **(B) The person has a religious or conscientious objection to the required treatments or**  
17 **prophylactic measures.**

18          **(e) Notwithstanding ORS 332.075, direct a district school board to close a children's fa-**  
19 **ility or school under the jurisdiction of the board. The authority granted to the Public**  
20 **Health Director under this paragraph supersedes the authority granted to the district school**  
21 **board under ORS 332.075 to the extent the authority granted to the board is inconsistent with**  
22 **the authority granted to the director.**

23          **(f) Issue guidelines for private businesses regarding appropriate work restrictions.**

24          **(g) Organize public information activities regarding the public health response to cir-**  
25 **cumstances described in subsection (1) of this section.**

26          **(h) Adopt reporting requirements for, and provide notice of those reporting requirements**  
27 **to, health care providers, institutions and facilities for the purpose of obtaining information**  
28 **directly related to the public health threat presented.**

29          **(i) Take control of antitoxins, serums, vaccines, immunizing agents, antibiotics, antidotes**  
30 **and other pharmaceutical agents, medical supplies or personal protective equipment.**

31          **(3) The authority granted to the Public Health Director under this section is not intended**  
32 **to override the general authority provided to a local public health authority except as already**  
33 **permitted by law, or under the circumstances described in subsection (1) of this section.**

34          **(4) If the Department of Human Services adopts temporary rules to implement sub-**  
35 **section (2) of this section, the rules adopted are not subject to the provisions of ORS 183.335**  
36 **(6)(a). The department may amend the temporary rules adopted under this subsection as**  
37 **often as is necessary to respond to the public health threat.**

38          **(5) If it is necessary for the department to purchase antitoxins, serums, vaccines,**  
39 **immunizing agents, antibiotics, antidotes or other pharmaceutical agents, medical supplies**  
40 **or personal protective equipment, the purchases are not subject to the provisions of ORS**  
41 **chapter 279A, 279B or 279C.**

42          **(6) If property is taken under the authority granted to the Public Health Director under**  
43 **subsection (2) of this section, the owner of the property is entitled to reasonable compen-**  
44 **sation from the state.**

45          **SECTION 5a. The Public Health Director, after consultation with local public health au-**

1 **thorities and local public health administrators, shall adopt rules governing the development**  
2 **of emergency plans and an incident management system.**

3 **SECTION 6.** ORS 433.001 is amended to read:

4 433.001. As used in ORS 433.001 to 433.045 and 433.106 to 433.770 unless the context requires  
5 otherwise:

6 (1) "Communicable disease" [*means a disease or condition, the infectious agent of which may be*  
7 *transmitted from one person or an animal to another person, either by direct contact or through an*  
8 *intermediate host, vector or inanimate object, and that may result in illness, death or severe*  
9 *disability.*] **has the meaning given that term in section 3 of this 2007 Act.**

10 (2) "Condition of public health importance" **has the meaning given that term in section**  
11 **3 of this 2007 Act.**

12 [(2)] (3) "Department" means the Department of Human Services.

13 [(3)] (4) "Director" means the Director of Human Services.

14 (5) "Isolation" **means the physical separation and confinement of a person or group of**  
15 **persons who are infected or reasonably believed to be infected with a communicable disease**  
16 **or possibly communicable disease from nonisolated persons to prevent or limit the trans-**  
17 **mission of the disease to nonisolated persons.**

18 [(4)] (6) "Local public health administrator" [*means the local public health administrator of the*  
19 *county or district under ORS 431.418 or the authorized representative of the public health administra-*  
20 *tor*] **has the meaning given that term in section 3 of this 2007 Act.**

21 (7) "Local public health authority" **has the meaning given that term in section 3 of this**  
22 **2007 Act.**

23 [(5)] (8) "Property" means animals, inanimate objects, vessels, public conveyances, buildings and  
24 all other real or personal property.

25 [(6)] (9) "Public health measure" [*means isolation, quarantine or other preventative public health*  
26 *measure imposed on persons or property in order to prevent the spread of or exposure to diseases or*  
27 *contaminants of threat to the public*] **has the meaning given that term in section 3 of this 2007**  
28 **Act.**

29 (10) "Quarantine" **means the physical separation and confinement of a person or group**  
30 **of persons who have been or may have been exposed to a communicable disease or possibly**  
31 **communicable disease and who do not show signs or symptoms of a communicable disease,**  
32 **from persons who have not been exposed to a communicable disease or possibly**  
33 **communicable disease, to prevent or limit the transmission of the disease to other persons.**

34 [(7)] (11) "Reportable disease" [*means a disease or condition, the reporting of which enables a*  
35 *public health agency to take action to protect or to benefit the public health*] **has the meaning given**  
36 **that term in section 3 of this 2007 Act.**

37 [(8)] (12) "Toxic substance" [*means a substance that may cause illness, disability or death to per-*  
38 *sons who are exposed to it*] **has the meaning given that term in section 3 of this 2007 Act.**

39 **SECTION 6a.** ORS 433.004 is amended to read:

40 433.004. (1) The Department of Human Services shall by rule:

41 (a) Specify reportable diseases;

42 (b) Identify those categories of persons who must report reportable diseases and the circum-  
43 stances under which the reports must be made;

44 (c) Prescribe the procedures and forms for making such reports and transmitting the reports to  
45 the department; and

1 (d) Prescribe measures for investigating the source and controlling reportable diseases.

2 (2) Persons required under the rules to report reportable diseases shall do so by reporting to the  
3 local public health administrator. The local public health administrator shall transmit such reports  
4 to the department.

5 (3) In addition to other grounds for which a state agency may exercise disciplinary action  
6 against its licensees or certificate holders, the substantial or repeated failure of [*such*] a licensee  
7 or certificate holder to report **when required to do so** under subsection (2) of this section [*when*  
8 *required by department rule to do so*] shall be cause for the exercise of any of [*such*] **the** agency's  
9 disciplinary powers.

10 (4) **Any person making a report under this section is immune from any civil or criminal**  
11 **liability that might otherwise be incurred or imposed with respect to the making of a report**  
12 **under this section or to the contents of the report.**

13 **SECTION 6b.** ORS 433.009 is amended to read:

14 433.009. (1) Notwithstanding ORS 192.501 (3), 192.502 (2) and 433.045, if, during the course of a  
15 criminal investigation, a law enforcement unit acquires information that the person who is charged  
16 with a crime or sentenced for a crime has a reportable disease, the law enforcement unit shall dis-  
17 close that information to the public health authorities who shall confirm the diagnosis and notify  
18 any police officer, corrections officer or emergency medical technician who had significant exposure  
19 to the person.

20 (2) As used in this section:

21 (a) "Emergency medical technician" has the meaning given that term in ORS 682.025.

22 (b) "Law enforcement unit," "police officer" and "corrections officer" have the meanings given  
23 those terms in ORS 181.610.

24 [*(c) "Reportable disease" has the meaning given the term in ORS 433.001.*]

25 (c) **"Reportable disease" means a disease or condition, the reporting of which enables a**  
26 **public health authority to take action to protect or to benefit the public health.**

27 **SECTION 6c.** ORS 433.040 is amended to read:

28 433.040. (1) As used in this section, "vaccine" includes vaccines, immune products and  
29 chemoprophylactic medications.

30 (2) When the State Health Officer of the Department of Human Services determines that there  
31 is clear evidence that adverse and avoidable health outcomes from a preventable and acute  
32 communicable disease are expected to affect identifiable categories of high-risk individuals  
33 throughout Oregon and that assistance with the administration of vaccine is warranted due to a  
34 vaccine shortage to protect or treat such individuals, the health officer shall implement the Oregon  
35 Vaccine Education and Prioritization Plan as provided in subsection (3) of this section.

36 (3) The Department of Human Services shall develop and adopt by rule the Oregon Vaccine  
37 Education and Prioritization Plan to protect the public health during a vaccine shortage. The plan  
38 shall consist of:

39 (a) Guidelines for physicians, nurses, hospitals, health systems, pharmacies and others that hold  
40 vaccines for the distribution and administration of vaccines. The guidelines shall include, but are  
41 not limited to, a definition of high-risk groups for priority protection or treatment in the event a  
42 vaccine shortage is imminent;

43 (b) Rules for imposing a civil penalty of \$500 against persons who knowingly violate the guide-  
44 lines for each repeat violation of the guidelines; and

45 (c) Procedures for:

1 (A) Mobilizing public and private health resources to assist in vaccine distribution and admin-  
2 istration; and

3 (B) Notifying health professional regulatory boards and licensing authorities of repeated vio-  
4 lations of the guidelines by health professionals regulated by the board or licensed by the authority.

5 (4) **If the department adopts temporary rules to implement subsection (2) of this section,**  
6 **the rules adopted are not subject to the requirements of ORS 183.335 (6)(a). The department**  
7 **may amend the temporary rules adopted pursuant to subsection (3) of this section as often**  
8 **as is necessary to respond to a vaccine shortage.**

9 **SECTION 7.** Sections 8 to 17 of this 2007 Act are added to and made part of ORS 433.106  
10 to 433.770.

11 **SECTION 8.** (1) **The Public Health Director or a local public health administrator may**  
12 **issue an emergency administrative order causing a person or group of persons to be placed**  
13 **in isolation or quarantine if the Public Health Director or the local public health adminis-**  
14 **trator has probable cause to believe that a person or group of persons requires immediate**  
15 **detention in order to avoid a clear and immediate danger to others and that considerations**  
16 **of safety do not allow initiation of the petition process set out in section 9 of this 2007 Act.**  
17 **An administrative order issued under this section must:**

18 (a) **Identify the person or group of persons subject to isolation or quarantine;**

19 (b) **Identify the premises where isolation or quarantine will take place, if known;**

20 (c)(A) **Describe the reasonable efforts made to obtain voluntary compliance with a re-**  
21 **quest for an emergency public health action including requests for testing or medical exam-**  
22 **ination, treatment, counseling, vaccination, decontamination of persons or animals, isolation,**  
23 **quarantine, and inspection and closure of facilities; or**

24 (B) **Explain why reasonable efforts to obtain voluntary compliance are not possible and**  
25 **why the pursuit of these efforts creates a risk of serious harm to others;**

26 (d) **Describe the suspected communicable disease or toxic substance, if known, that is the**  
27 **basis for the issuance of the emergency administrative order and the anticipated duration**  
28 **of isolation or quarantine based on the suspected communicable disease or toxic substance;**

29 (e) **Provide information supporting the reasonable belief of the Public Health Director or**  
30 **the local public health administrator that the person or group of persons is, or is suspected**  
31 **to be, infected with, exposed to, or contaminated with a communicable disease or toxic sub-**  
32 **stance that could spread to or contaminate others if remedial action is not taken;**

33 (f) **Provide information supporting the reasonable belief of the Public Health Director or**  
34 **the local public health administrator that the person or group of persons would pose a seri-**  
35 **ous and imminent risk to the health and safety of others if not detained for purposes of**  
36 **isolation or quarantine;**

37 (g) **Describe the medical basis for which isolation or quarantine is justified and explain**  
38 **why isolation or quarantine is the least restrictive means available to prevent a risk to the**  
39 **health and safety of others;**

40 (h) **Establish the time and date at which the isolation or quarantine commences; and**

41 (i) **Contain a statement of compliance with the conditions of and principles for isolation**  
42 **and quarantine specified in section 12 of this 2007 Act.**

43 (2) **In lieu of issuing an emergency administrative order under subsection (1) of this**  
44 **section, the Public Health Director or a local public health administrator may petition the**  
45 **court for a written ex parte order. The petition to the court and the court's order must in-**

1 **clude the information described in subsection (1) of this section.**

2 **(3) Within 12 hours of the issuance of an order under subsection (1) or (2) of this section,**  
3 **the person or group of persons detained or sought for detention must be personally served**  
4 **with the written notice required by section 10 of this 2007 Act and with a copy of any order**  
5 **issued under subsection (1) or (2) of this section. If copies of the notice and order cannot be**  
6 **personally served in a timely manner to a group of persons because the number of persons**  
7 **in the group makes personal service impracticable, the Public Health Director or the local**  
8 **public health administrator may post the notice and order in a conspicuous place where the**  
9 **notice and order can be viewed by those detained or may find other means to meaningfully**  
10 **communicate the information in the notice and order to those detained.**

11 **(4) A person or group of persons detained pursuant to an order issued under subsection**  
12 **(1) or (2) of this section may not be detained for longer than 72 hours unless a petition is filed**  
13 **under section 9 of this 2007 Act.**

14 **(5) If the detention of a person or group of persons for longer than 72 hours is deemed**  
15 **necessary, immediately following the issuance of an order under subsection (1) or (2) of this**  
16 **section, the Public Health Director or the local public health administrator must petition the**  
17 **court in accordance with section 9 of this 2007 Act.**

18 **(6) A person or group of persons detained under subsection (1) or (2) of this section has**  
19 **the right to be represented by legal counsel in accordance with section 11 of this 2007 Act.**

20 **SECTION 9. (1) The Public Health Director or a local public health administrator may**  
21 **petition the court for an order authorizing:**

22 **(a) The isolation or quarantine of a person or group of persons; or**

23 **(b) The continued isolation or quarantine of a person or group of persons detained under**  
24 **section 8 of this 2007 Act.**

25 **(2) A petition filed under subsections (1) and (9) of this section must:**

26 **(a) Identify the person or group of persons subject to isolation or quarantine;**

27 **(b) Identify the premises where isolation or quarantine will take place, if known;**

28 **(c)(A) Describe the reasonable efforts made to obtain voluntary compliance with a re-**  
29 **quest for an emergency public health action, including requests for testing or medical ex-**  
30 **amination, treatment, counseling, vaccination, decontamination of persons or animals,**  
31 **isolation, quarantine and inspection and closure of facilities; or**

32 **(B) Explain why reasonable efforts to obtain voluntary compliance are not possible and**  
33 **why the pursuit of these efforts creates a risk of serious harm to others;**

34 **(d) Describe the suspected communicable disease or toxic substance, if known, and the**  
35 **anticipated duration of isolation or quarantine based on the suspected communicable disease,**  
36 **infectious agent or toxic substance;**

37 **(e) Provide information supporting the reasonable belief of the Public Health Director or**  
38 **the local public health administrator that the person or group of persons is, or is suspected**  
39 **to be, infected with, exposed to, or contaminated with a communicable disease or toxic sub-**  
40 **stance that could spread to or contaminate others if remedial action is not taken;**

41 **(f) Provide information supporting the reasonable belief of the Public Health Director or**  
42 **the local public health administrator that the person or group of persons would pose a seri-**  
43 **ous risk to the health and safety of others if not detained for purposes of isolation or**  
44 **quarantine;**

45 **(g) Describe the medical basis for which isolation or quarantine is justified and explain**

1 why isolation or quarantine is the least restrictive means available to prevent a serious risk  
2 to the health and safety of others;

3 (h) Establish the time and date on which the isolation or quarantine commences; and

4 (i) Contain a statement of compliance with the conditions of and principles for isolation  
5 and quarantine specified in section 12 of this 2007 Act.

6 (3) The person or group of persons detained or sought for detention must be personally  
7 served with a copy of the petition filed with the court under subsection (1) of this section  
8 and with the written notice required by section 10 of this 2007 Act. If copies of the petition  
9 and notice cannot be personally served in a timely manner to a group of persons because the  
10 number of persons in the group makes personal service impracticable, the Public Health Di-  
11 rector or the local public health administrator may post the petition and notice in a con-  
12 spicuous place where the petition and notice can be viewed by those detained or may find  
13 other means to meaningfully communicate the information in the petition and notice to  
14 those detained.

15 (4) A person or group of persons subject to a petition filed under subsection (1) or (9) of  
16 this section has the right to be represented by legal counsel in accordance with section 11  
17 of this 2007 Act.

18 (5) The filing of a petition under subsection (1) of this section to continue isolation or  
19 quarantine for a person or group of persons detained under an emergency administrative  
20 order issued under section 8 of this 2007 Act extends the isolation or quarantine order until  
21 the court holds a hearing pursuant to subsection (6) of this section.

22 (6)(a) The court shall hold a hearing on a petition filed under subsection (1) of this sec-  
23 tion within 72 hours of the filing of the petition, exclusive of Saturdays, Sundays and legal  
24 holidays.

25 (b) In extraordinary circumstances and for good cause shown, or with consent of the  
26 affected persons, the Public Health Director or the local public health administrator may  
27 apply to continue the hearing date for up to 10 days. The court may grant a continuance at  
28 its discretion, giving due regard to the rights of the affected persons, the protection of the  
29 public health, the severity of the public health threat and the availability of necessary wit-  
30 nesses and evidence.

31 (c) The hearing required under this subsection may be waived by consent of the affected  
32 persons.

33 (d) The provisions of ORS 40.230, 40.235 and 40.240 do not apply to a hearing held under  
34 this subsection. Any evidence presented at the hearing that would be privileged and not  
35 subject to disclosure except as required by this paragraph shall be disclosed only to the  
36 court, the parties and their legal counsel or persons authorized by the court and may not  
37 be disclosed to the public.

38 (7) If a person or group of persons who is the subject of a petition filed under subsection  
39 (1) or (9) of this section cannot personally appear before the court because personal appear-  
40 ance poses a risk of serious harm to others, the court proceeding may be conducted by legal  
41 counsel for the person or group of persons and be held at a location or via any means that  
42 allows all parties to fully participate.

43 (8) The court shall grant the petition if, by clear and convincing evidence, the court finds  
44 that isolation or quarantine is necessary to prevent a serious risk to the health and safety  
45 of others. In lieu of or in addition to isolation or quarantine, the court may order the impo-

1 sition of other public health measures appropriate to the public health threat presented. The  
2 court order must:

3 (a) Specify the maximum duration for the isolation or quarantine, which may not exceed  
4 60 days unless there is substantial medical evidence indicating that the condition that is the  
5 basis of the public health threat is spread by airborne transmission and cannot be rendered  
6 noninfectious within 60 days or may recur after 60 days, in which case the maximum dura-  
7 tion of the isolation or quarantine may not exceed a period of 180 days;

8 (b) Identify the person or group of persons subject to the order by name or shared or  
9 similar characteristics or circumstances;

10 (c) Specify the factual findings warranting imposition of isolation, quarantine or another  
11 public health measure;

12 (d) Include any conditions necessary to ensure that isolation or quarantine is carried out  
13 within the stated purposes and restrictions of this section; and

14 (e) Be served on all affected persons or groups in accordance with subsection (3) of this  
15 section.

16 (9) Prior to the expiration of a court order issued under subsection (8) or (10) of this  
17 section, the Public Health Director or the local public health administrator may petition the  
18 court to continue isolation or quarantine. A petition filed under this subsection must comply  
19 with the requirements of subsections (2) to (8) of this section.

20 (10)(a) The court will hold a hearing on a petition filed under subsection (9) of this section  
21 within 72 hours of filing, exclusive of Saturdays, Sundays and legal holidays.

22 (b) In extraordinary circumstances and for good cause shown, or with consent of the  
23 affected persons, the Public Health Director or the local public health administrator may  
24 apply to continue the hearing date for up to 10 days. The court may grant a continuance at  
25 its discretion, giving due regard to the rights of the affected persons, the protection of the  
26 public health, the severity of the public health threat and the availability of necessary wit-  
27 nesses and evidence.

28 (c) The hearing required under this subsection may be waived by consent of the affected  
29 parties.

30 (d) The court may continue the isolation or quarantine order if the court finds there is  
31 clear and convincing evidence that continued isolation or quarantine is necessary to prevent  
32 a serious threat to the health and safety of others. In lieu of or in addition to continued  
33 isolation or quarantine, the court may order the imposition of a public health measure ap-  
34 propriate to the public health threat presented.

35 (e) An order issued under this subsection must comply with the requirements of sub-  
36 section (8) of this section.

37 (11) An order issued under subsection (10) of this section shall be for a period not to ex-  
38 ceed 60 days and shall be served on all affected parties in accordance with subsection (3) of  
39 this section.

40 (12) In no case may a person or group of persons be in quarantine or isolation for longer  
41 than 180 days unless, following a hearing, a court finds that extraordinary circumstances  
42 exist and that the person or group of persons subject to isolation or quarantine continues  
43 to pose a serious threat to the health and safety of others if detention is not continued.

44 (13) Failure to obey a court order issued under this section shall subject the person in  
45 violation of the order to contempt proceedings under ORS 33.015 to 33.155.

1       **SECTION 10.** (1) The Public Health Director or the local public health administrator shall  
2 provide the person or group of persons detained or sought for detention under section 8 or  
3 9 of this 2007 Act with a written notice informing the person or group of persons of:

4       (a) The right to legal counsel, including how to request and communicate with counsel;

5       (b) The right to petition the court for release from isolation or quarantine and the pro-  
6 cedures for filing a petition;

7       (c) The conditions of and principles of isolation and quarantine specified in section 12 of  
8 this 2007 Act;

9       (d) The right to petition the court for a remedy regarding a breach of the conditions of  
10 isolation or quarantine imposed on the person or group of persons and the procedures for  
11 filing a petition; and

12       (e) The sanctions that may be imposed for violating an order issued under section 8 or  
13 9 of this 2007 Act.

14       (2) The Public Health Director or the local public health administrator must ensure, to  
15 the extent practicable, that the person or group of persons receives the notice required un-  
16 der this section in a language and in a manner the person or group of persons can under-  
17 stand.

18       (3) The Public Health Director may adopt rules prescribing the form of notice required  
19 by this section.

20       **SECTION 11.** (1) A person or group of persons subject to isolation or quarantine or other  
21 public health measure pursuant to section 8 or 9 of this 2007 Act has the right to be re-  
22 presented by legal counsel if the person or group of persons so elects. If the person or group  
23 of persons requests legal counsel and cannot afford counsel, the court shall appoint legal  
24 counsel. If no request for legal counsel is made, the court must appoint legal counsel unless  
25 counsel is expressly, knowingly and intelligently refused by the person or the group of per-  
26 sons. The person or the group of persons may request legal counsel at any time during the  
27 period of imposition of the isolation, quarantine or other public health measure.

28       (2) If a person is unable to afford legal counsel, the public defense services executive di-  
29 rector shall determine and pay, as provided in ORS 135.055, the reasonable expenses of the  
30 person and compensation for legal counsel appointed to represent the person.

31       **SECTION 12.** When isolating or quarantining a person or group of persons in accordance  
32 with section 8 or 9 of this 2007 Act, the Public Health Director or the local public health  
33 administrator shall adhere to the following conditions and principles:

34       (1) Isolation or quarantine must be by the least restrictive means necessary to prevent  
35 the spread of a communicable disease or possibly communicable disease to others or to limit  
36 exposure to or contamination with a toxic substance by others, and may include, but is not  
37 limited to, confinement to private homes or other public or private premises.

38       (2) Confinement may not be in a prison, jail or other facility where those charged with  
39 a crime or a violation of a municipal ordinance are incarcerated unless:

40       (a) The person or group of persons represents an immediate and serious physical threat  
41 to the staff or physical facilities of a hospital or other facility in which the person or group  
42 of persons has been confined; or

43       (b) A person has been found in contempt of court because of failure to obey a court or-  
44 der.

45       (3) Isolated persons must be confined separately from quarantined persons. If a facility

1 is not capable of separating isolated persons from quarantined persons, either the isolated  
2 persons or the quarantined persons must be moved to a separate facility.

3 (4) The health status of an isolated or quarantined person must be monitored regularly  
4 to determine if the person requires continued isolation or quarantine.

5 (5) A quarantined person who subsequently becomes infected or is reasonably believed to  
6 have become infected with a communicable disease or possibly communicable disease that  
7 the Public Health Director or the local public health administrator believes poses a signif-  
8 icant threat to the health and safety of other quarantined persons must be promptly placed  
9 in isolation.

10 (6) An isolated or quarantined person must be released as soon as practicable when the  
11 Public Health Director or local public health administrator determines that the person has  
12 been successfully decontaminated or that the person no longer poses a substantial risk of  
13 transmitting a communicable disease or possibly communicable disease that would constitute  
14 a serious or imminent threat to the health and safety of others.

15 (7) The needs of a person who is isolated or quarantined must be addressed to the  
16 greatest extent practicable in a systematic and competent fashion, including, but not limited  
17 to, providing adequate food, medication, competent medical care, clothing, shelter and means  
18 of communication with other persons who are in isolation or quarantine and persons who  
19 are not under isolation or quarantine.

20 (8) Premises used for isolation or quarantine must, to the extent practicable, be main-  
21 tained in a safe and hygienic manner to lessen the likelihood of further transmission of a  
22 communicable disease or possibly communicable disease or of further harm to persons who  
23 are isolated and quarantined.

24 (9) Cultural and religious beliefs should be considered to the extent practicable in ad-  
25 dressing the needs of persons who are isolated or quarantined and in establishing and main-  
26 taining premises used for isolation or quarantine.

27 (10)(a) Isolation or quarantine shall not abridge the right of any person to rely exclusively  
28 on spiritual means to treat a communicable disease or possibly communicable disease in ac-  
29 cordance with religious or other spiritual tenets and practices.

30 (b) Nothing in sections 10 to 17 of this 2007 Act prohibits a person who relies exclusively  
31 on spiritual means to treat a communicable disease or possibly communicable disease and  
32 who is infected with a communicable disease or has been exposed to a toxic substance from  
33 being isolated or quarantined in a private place of the person's own choice, provided the  
34 private place is approved by the Public Health Director or the local health administrator and  
35 the person who is isolated or quarantined complies with all laws, rules and regulations gov-  
36 erning control, sanitation, isolation and quarantine.

37 (11) Prior to placing a person or group of persons subject to isolation or quarantine in a  
38 health care facility as defined in ORS 442.015, the Public Health Director or the local public  
39 health administrator must provide to the managers of the health care facility notice of the  
40 intention to seek authorization from the court to place a person or group of persons in iso-  
41 lation or quarantine in the facility and must consult with the managers of the health care  
42 facility regarding how to best meet the requirements of this section.

43 (12) The Public Health Director or local public health administrator shall provide ade-  
44 quate means of communication between a person or a group of persons who is isolated or  
45 quarantined and legal counsel for the person or group of persons.

1       **SECTION 13.** (1) Entry into premises used for isolation or quarantine shall be allowed  
2 under the following conditions:

3       (a) The Public Health Director or the local public health administrator may authorize  
4 physicians or other health care workers or other persons access to persons or groups of  
5 persons who are in isolation or quarantine pursuant to section 8 or 9 of this 2007 Act as  
6 necessary to meet the needs of isolated or quarantined persons;

7       (b) Only persons authorized by the Public Health Director or the local public health ad-  
8 ministrator may enter premises used for isolation or quarantine;

9       (c) An authorized person entering premises used for isolation or quarantine shall be  
10 provided with infection control training and may be required to wear personal protective  
11 equipment or to receive vaccinations as determined by the Public Health Director or the lo-  
12 cal public health administrator; and

13       (d) A person entering premises used for isolation or quarantine with or without author-  
14 ization of the Public Health Director or the local public health administrator may become  
15 subject to isolation or quarantine.

16       (2) Persons subject to isolation or quarantine and other persons entering premises used  
17 for isolation or quarantine are subject to rules and orders adopted by the Public Health Di-  
18 rector or the local public health administrator. Failure to comply with rules and orders  
19 adopted by the Public Health Director or the local public health administrator is a Class D  
20 violation.

21       (3) If a health care facility as defined in ORS 442.015 is used as a premises for isolation  
22 or quarantine, the Public Health Director or the local public health administrator must  
23 consult with the managers of the health care facility regarding how best to meet the re-  
24 quirements of this section.

25       (4) Nothing in this section prohibits a physician or other health care worker in a health  
26 care facility from having access to a person or a group of persons who is in isolation or  
27 quarantine pursuant to section 8 or 9 of this 2007 Act if the infection control procedures and  
28 other precautions determined necessary by the Public Health Director are adhered to by the  
29 facility and the physician or other health care worker seeking access to the isolated or  
30 quarantined person.

31       **SECTION 14.** (1)(a) Any person or group of persons who is isolated or quarantined pur-  
32 suant to section 8 or 9 of this 2007 Act may apply to the court for an order to show cause  
33 why the individual or group should not be released.

34       (b) The court shall rule on the application to show cause within 48 hours of the filing of  
35 the application.

36       (c) The court must grant the application if there is a reasonable basis to support the  
37 allegations in the application, and the court shall schedule a hearing on the order requiring  
38 the Department of Human Services to appear and to show cause within five working days  
39 of the filing of the application.

40       (d) The issuance of an order to show cause and ordering the department to appear and  
41 show cause does not stay or enjoin an isolation or quarantine order.

42       (2)(a) A person or group of persons who is isolated or quarantined may request a hearing  
43 in the court for remedies regarding breaches of the conditions of isolation or quarantine  
44 required by section 12 of this 2007 Act.

45       (b) The court must hold a hearing if there is a reasonable basis to believe there has been

1 a breach of the conditions of isolation or quarantine required by section 12 of this 2007 Act.

2 (c) A request for a hearing shall not stay or enjoin an order for isolation or quarantine.

3 (d) Upon receipt of a request under this subsection alleging extraordinary circumstances  
4 justifying the immediate granting of relief, the court shall hold a hearing on the matters  
5 alleged as soon as practicable.

6 (e) If a hearing is not granted under paragraph (c) of this subsection, the court shall hold  
7 a hearing on the matters alleged within five days from receipt of the request.

8 (3) In any proceedings brought for relief under this section, in extraordinary circum-  
9 stances and for good cause shown, or with consent of the petitioner or petitioners the Public  
10 Health Director or local public health administrator may move the court to extend the time  
11 for a hearing. The court in its discretion may grant the extension giving due regard to the  
12 rights of the affected persons, the protection of the public health, the severity of the emer-  
13 gency and the availability of necessary witnesses and evidence.

14 (4) If a person or group of persons who is detained cannot personally appear before the  
15 court because such an appearance poses a risk of serious harm to others, the court pro-  
16 ceeding may be conducted by legal counsel for the person or group of persons and be held  
17 at a location or via any means that allows all parties to fully participate.

18 (5) If the court finds, by clear and convincing evidence, that a person or group of persons  
19 no longer poses a serious risk to the health and safety to others, the court may order the  
20 release of that person or group of persons from isolation or quarantine.

21 (6) If the court finds by clear and convincing evidence that a person or group of persons  
22 is not being held in accordance with the conditions of isolation or quarantine required by  
23 section 12 of this 2007 Act, the court may order an appropriate remedy to ensure compliance  
24 with section 12 of this 2007 Act.

25 **SECTION 15.** Upon receiving multiple petitions under sections 9, 14 or 17 of this 2007 Act,  
26 to promote the fair and efficient operation of justice and having given due regard to the  
27 rights of affected persons, the severity of the threat to the public health, and the availability  
28 of necessary witnesses and evidence, a court may order the consolidation of the proceedings  
29 when:

30 (1) The number of persons involved or to be affected is so large that individual partic-  
31 ipation is rendered impracticable;

32 (2) There are questions of law or fact common to the individual petitions or rights to be  
33 determined;

34 (3) The group petitioner rights to be determined are typical of the affected persons' pe-  
35 titions or rights; and

36 (4) The entire group will be adequately represented in the consolidation.

37 **SECTION 16.** State and local law enforcement officials, to the extent resources are  
38 available, must assist the Public Health Director or the local public health administrator in  
39 enforcing orders issued under sections 8, 9 and 17 of this 2007 Act.

40 **SECTION 17.** (1) As used in this section, "to isolate property" means to restrict access  
41 to property in a manner that reduces or prevents exposure to a toxic substance by persons.

42 (2) The Public Health Director or a local public health administrator may petition the  
43 court to isolate property if there is reason to believe the property is contaminated with a  
44 toxic substance that poses a serious risk to the health and safety of others.

45 (3) The petition must:

1 (a) Describe the property subject to isolation;

2 (b)(A) Describe the reasonable efforts made to obtain voluntary compliance from the  
3 owner or custodian of the property with public health measures necessary to isolate the  
4 property; or

5 (B) Explain why reasonable efforts to obtain voluntary compliance are not possible and  
6 why the pursuit of these efforts creates a risk of serious harm to others;

7 (c) Describe the suspected toxic substance and the health effects of exposure to the toxic  
8 substance;

9 (d) Provide information supporting the reasonable belief of the Public Health Director or  
10 the local public health administrator that the toxic substance could spread to or contaminate  
11 others if remedial action is not taken;

12 (e) Provide information supporting the reasonable belief of the Public Health Director or  
13 the local public health administrator that the toxic substance poses a serious risk to the  
14 health and safety of others if the property is not isolated;

15 (f) Explain why isolation of the property is the least restrictive means available to pre-  
16 vent a serious risk to the health and safety of others; and

17 (g) Explain whether the property subject to isolation can be decontaminated or whether  
18 the property must be destroyed.

19 (4) The petition must be personally served on the owner or custodian of the property.

20 (5)(a) The court must hold a hearing within 72 hours of the filing of the petition, exclu-  
21 sive of Saturdays, Sundays and legal holidays.

22 (b) For good cause shown, or with consent of the affected owner or custodian of the  
23 property, the Public Health Director or the local public health administrator may apply to  
24 continue the hearing date for up to 10 days, which continuance the court may grant at its  
25 discretion giving due regard to the rights of the affected owner or custodian of the property,  
26 the protection of the public health, the severity of the public health threat and the avail-  
27 ability of necessary witnesses and evidence.

28 (c) A hearing may be waived by the owner or custodian of the property.

29 (6) The court shall grant the petition if, by clear and convincing evidence, the court finds  
30 that isolation of property contaminated with a toxic substance is necessary to prevent a se-  
31 rious risk to the health and safety of others. An order authorizing isolation shall be in effect  
32 until the toxic substance no longer poses a serious risk to the health and safety of others.

33 (7) The court order must:

34 (a) Identify the property to be isolated;

35 (b) Specify factual findings warranting isolation, including a description of the toxic  
36 substance believed to be contaminating the property;

37 (c) Include any conditions necessary to ensure that isolation is carried out within the  
38 stated purposes and restrictions of this section; and

39 (d) Describe the remedial actions necessary to neutralize or remove the contamination.

40 **SECTION 18.** ORS 433.035 is amended to read:

41 433.035. (1)(a) [*Whenever the Director of Human Services or any local public health administrator*  
42 *reasonably believes any person within the jurisdiction of the director or local public health adminis-*  
43 *trator has any*] **The Public Health Director or a local public health administrator may require**  
44 **testing or medical examination of any person who may have, or may have been exposed to,**  
45 **a communicable disease identified by rule of the Department of Human Services to be a reportable**

1 disease, **a new or uncommon disease of potential public health significance**, or a condition that  
 2 is the basis of a state of [*impending public health crisis*] **public health emergency** declared by the  
 3 Governor as authorized by ORS 433.441[, *the director or local public health administrator may cause*  
 4 *a medical examination to be made of such person to determine whether the person has a communicable*  
 5 *disease*]. The [*person who orders an*] **Public Health Director or the local public health adminis-**  
 6 **trator must issue a written order for testing or medical** examination pursuant to this section.  
 7 [*shall, in the order, make written*]

8 **(b) A written order must:**

9 **(A) Include** findings stating the communicable disease that the [*person ordering the*  
 10 *examination*] **Public Health Director or the local public health administrator** believes the person  
 11 has[,] **and** the reasons for that belief.[, *that*]

12 **(B) State whether** medical or laboratory confirmation of the disease is feasible and possible  
 13 and [*that*] **whether** such confirmation would enable control measures to be taken to minimize in-  
 14 fection of others with the disease. [*The order shall also*]

15 **(C) Include** a statement that the person may refuse to submit to the **testing or medical** exam-  
 16 ination and that if [*so, a public health measure may be imposed*] **the testing or examination is re-**  
 17 **fused, the Public Health Director or the local public health administrator may seek the**  
 18 **imposition of a public health measure, including isolation or quarantine pursuant to section**  
 19 **8 or 9 of this 2007 Act.**

20 (2) When [*any*] **a person** is directed to submit to [*an*] **a test or** examination under [*subsection*  
 21 *(1) of*] this section and the person agrees to do so, the person shall submit to [*such*] **any testing**  
 22 **or** examination as may be necessary to establish the presence or absence of the communicable dis-  
 23 ease for which the [*medical*] **testing or** examination was directed. The examination shall be carried  
 24 out by the local health officer or a physician licensed by the Board of Medical Examiners for the  
 25 State of Oregon or the Board of Naturopathic Examiners. A written report of the results of [*such*]  
 26 **the test or** examination shall be [*made*] **provided** to the person ordering the **test or** examination,  
 27 **and upon request, to the person tested or examined.** Laboratory examinations, if any, shall be  
 28 carried out by the laboratory of the department whenever [*such*] **the** examinations are within the  
 29 scope of the tests conducted by the laboratory. If treatment is needed, the person **or**[,] the parent  
 30 or guardian of the person shall be liable for the costs of treatment based on the examination carried  
 31 out under this section, [*when*] **if the person liable is** able to pay [*such*] **the treatment** costs. Cost  
 32 of any examination performed by a physician in private practice shall be paid from public funds  
 33 available to the local public health administrator, if any, or from county funds available for general  
 34 governmental expenses in the county [*for which*] **that** the local public health administrator serves  
 35 or in the county where the person **tested or** examined resides if the local public health adminis-  
 36 trator serves more than one county or the **test or** examination was ordered by the [*director*] **Public**  
 37 **Health Director or local public health administrator.**

38 [(3) *If the person directed to submit to a medical examination pursuant to subsection (1) of this*  
 39 *section refuses to do so the director or the local public health administrator may impose a public health*  
 40 *measure pursuant to ORS 433.019, 433.022 and 433.106.*]

41 [(4) *In any proceeding under ORS 433.019, 433.022 and 433.106, the lack of confirming medical or*  
 42 *laboratory evidence that could be obtained by an examination which was refused when requested under*  
 43 *this section shall not preclude a finding that probable cause exists.*]

44 **(3) If a person has a communicable disease, a new or uncommon disease of potential**  
 45 **public health significance, or a condition that is the basis of a state of public health emer-**

1 **gency, the Public Health Director or the local public health administrator may issue an order**  
 2 **requiring the person to complete an appropriate prescribed course of medication or other**  
 3 **treatment for the communicable disease, including directly observed therapy if appropriate,**  
 4 **and to follow infection control provisions for the disease. The order shall also include state-**  
 5 **ments that the person may refuse the medication or other treatment and that the person's**  
 6 **failure to comply with the order issued under this subsection may result in the Public Health**  
 7 **Director or the local public health administrator seeking the imposition of a public health**  
 8 **measure, including isolation or quarantine as authorized by sections 8 and 9 of this 2007 Act.**

9 (4) **The Public Health Director or the local public health administrator must make every**  
 10 **effort to obtain voluntary compliance from a person for any testing, medical examination and**  
 11 **treatment required under this section.**

12 (5) **Any action taken by the Public Health Director or the local public health adminis-**  
 13 **trator under this section to compel testing, medical examination or treatment of a person**  
 14 **who has a communicable disease, a new or uncommon disease of potential public health sig-**  
 15 **nificance, or a condition that is the basis of a state of public health emergency must be the**  
 16 **least restrictive alternative available to accomplish the results necessary to minimize the**  
 17 **transmission of the disease to others.**

18 **SECTION 18a.** ORS 433.156 is amended to read:

19 433.156. All state and local [*police officers*] **law enforcement authorities** shall cooperate with  
 20 any officer authorized to impose isolation or quarantine in the enforcement thereof.

21 **SECTION 19.** ORS 433.216 is amended to read:

22 433.216. If the [*Director of Human Services*] **Public Health Director** finds that there is an im-  
 23 minent risk of the introduction into the state by means of any public or private conveyance of any  
 24 dangerous communicable disease or toxic substance which presents a substantial threat to public  
 25 health, the director may detain such conveyance for inspection or investigation.

26 **SECTION 20.** ORS 433.220 is amended to read:

27 433.220. (1) If upon inspection pursuant to ORS 433.216, there is discovered among the passen-  
 28 gers or goods [*therein*] **being transported by any public or private conveyance** the existence of  
 29 any communicable disease or toxic substance [*which*] **that** presents a substantial threat to public  
 30 health, the [*Director of Human Services*] **Public Health Director**, under rules of the Department of  
 31 Human Services may:

32 (a) **Issue an order for testing, medical examination or treatment under ORS 433.035.**

33 [(a)] (b) Isolate or quarantine [*or impose other public health measures on*] such persons or goods  
 34 in accordance with [*ORS 433.019, 433.022 and 433.106*] **section 8, 9 or 17 of this 2007 Act.**

35 [(b)] (c) Cause the passengers and material in the involved conveyance to be subjected to re-  
 36 quirements by the Department of **Human Services** for the control of the specific communicable  
 37 disease or prevention of harm to the public health from the toxic substance.

38 [(c)] (d) Offer free immunization in those diseases to which such prophylactic treatment is ap-  
 39 plicable to all persons exposed in any conveyance.

40 (2) Should any question arise as to the existence of any emergency, the **Public Health Director**  
 41 shall have final jurisdiction.

42 **SECTION 21.** Sections 22 and 28 of this 2007 Act are added to and made a part of ORS  
 43 **433.441 to 433.452.**

44 **SECTION 22.** As used in ORS 433.441 to 433.452:

45 (1) **"Bioterrorism"** means the intentional use of any microorganism, virus, infectious

1 substance or biological product to cause death, disease or other biological harm to a human,  
2 an animal, a plant or another living organism.

3 (2) "Communicable disease" has the meaning given that term in section 3 of this 2007  
4 Act.

5 (3) "Local public health authority" has the meaning given that term in section 3 of this  
6 2007 Act.

7 (4) "Public health emergency" means an occurrence or imminent threat of an illness or  
8 health condition that:

9 (a) Is believed to be caused by any of the following:

10 (A) Bioterrorism;

11 (B) The appearance of a novel or previously controlled or eradicated infectious agent or  
12 biological toxin that may be highly contagious;

13 (C) An epidemic of communicable disease; or

14 (D) A natural disaster, a chemical attack or accidental chemical release or a nuclear  
15 attack or nuclear accident; and

16 (b) Poses a high probability of any of the following harms:

17 (A) A large number of deaths in the affected population;

18 (B) A large number of serious or long-term disabilities in the affected population; or

19 (C) Widespread exposure to an infectious or toxic agent that poses a significant risk of  
20 substantial future harm to a large number of persons in the affected population.

21 (5) "Public health measure" has the meaning given that term in section 3 of this 2007  
22 Act.

23 **SECTION 23.** ORS 433.441 is amended to read:

24 433.441. (1) Upon the occurrence of a public health emergency, the Governor may [*proclaim*  
25 *a state of impending public health crisis after determining that a threat to the public health is imminent*  
26 *and likely to be widespread, life-threatening and of a scope that requires immediate medical action as*  
27 *authorized*] **declare a state of public health emergency as authorized** by ORS 433.441 to 433.452  
28 to protect the public health.

29 (2) A proclamation of a state of [*impending public health crisis*] **public health emergency** must  
30 specify:

31 (a) The nature of the [*impending public health crisis. A public health crisis can result from*  
32 *bioterrorism, chemical or radiological contamination, pandemic influenza or any other unusual or ex-*  
33 *traordinary incidence of a communicable or reportable disease.*] **public health emergency;**

34 (b) The political subdivision or geographic area subject to the proclamation;

35 (c) The conditions that have brought about the public health emergency; and

36 (d) The duration of the state of public health emergency, if the duration is less than 14  
37 days.

38 (3) During a public health emergency, the Governor may:

39 (a) Close, order the evacuation of or the decontamination of any facility the Governor  
40 has reasonable cause to believe may endanger the public health.

41 (b) Regulate or restrict by any means necessary the use, sale or distribution of food, fuel,  
42 medical supplies, medicines or other goods and services.

43 (c) Prescribe modes of transportation, routes and destinations required for the evacu-  
44 ation of individuals or the provision of emergency services.

45 (d) Control or limit entry into, exit from, movement within and the occupancy of prem-

1 **ises in any public area subject to or threatened by a public health emergency if such actions**  
2 **are reasonable and necessary to respond to the public health emergency.**

3 **(e) Take any other action that may be necessary for the management of resources, or**  
4 **to protect the public during a public health emergency, including any actions authorized**  
5 **under ORS 401.065, 401.074, 401.085 and 401.095.**

6 [(3)] (4) Nothing in ORS 433.441 to 433.452 limits the authority of the Governor to declare a  
7 state of emergency under ORS 401.055. If a state of emergency is declared as authorized under ORS  
8 401.055, the Governor may implement any action authorized by ORS 433.441 to 433.452.

9 [(4)] (5) A proclamation of a state of [*impending public health crisis*] **public health emergency**  
10 expires when terminated by a declaration of the Governor or **no more than** 14 days after the date  
11 [*it*] **the public health emergency** is proclaimed unless the **Governor expressly extends the** proc-  
12 lamation [*is expressly extended*] for an additional 14-day period [*by the Governor*].

13 **(6) When real or personal property is taken under power granted by this section, the**  
14 **owner of the property shall be entitled to reasonable compensation from the state.**

15 **SECTION 24.** ORS 433.443 is amended to read:

16 433.443. [(1)(a) *During a proclaimed state of impending public health crisis, the Department of*  
17 *Human Services may:*]

18 **(1)(a) During a public health emergency proclaimed under ORS 433.441, the Public Health**  
19 **Director may, as necessary to appropriately respond to the public health emergency:**

20 (A) Adopt reporting requirements for and provide notice of those requirements to health care  
21 providers, institutions and facilities for the purpose of obtaining information directly related to the  
22 [*impending public health crisis*] **public health emergency;**

23 (B) After consultation with appropriate medical experts, create **and require the use of** diag-  
24 nostic and treatment protocols to respond to the [*impending public health crisis*] **public health**  
25 **emergency** and provide notice of those protocols to health care providers, institutions and facilities;

26 (C) Order, or authorize local public health administrators to order, public health measures[, *in-*  
27 *cluding temporary isolation or quarantine of individuals or groups, as provided in ORS 433.019,*  
28 *433.022, 433.035 and 433.106;*] **appropriate to the public health threat presented;**

29 (D) Upon approval of the Governor, take other [*reasonable administrative actions necessary to*  
30 *address the impending public health crisis*] **actions necessary to address the public health emer-**  
31 **gency** and provide notice of those actions to health care providers, institutions and facilities, **in-**  
32 **cluding public health actions authorized by section 5 of this 2007 Act;** [*and*]

33 (E) [*Impose*] **Take any enforcement action authorized by section 4 of this 2007 Act, in-**  
34 **cluding the imposition of** civil penalties of up to \$500 per day against individuals, institutions or  
35 facilities that knowingly fail to comply with requirements resulting from actions taken in accordance  
36 with the powers granted to the [*Department of Human Services*] **Public Health Director** under  
37 subparagraphs (A), (B) and (D) of this paragraph[.]; **and**

38 **(F) The authority granted to the Public Health Director under this section:**

39 **(i) Supersedes any authority granted to a local public health authority if the local public**  
40 **health authority acts in a manner inconsistent with guidelines established or rules adopted**  
41 **by the director under this section; and**

42 **(ii) Does not supersede the general authority granted to a local public health authority**  
43 **or a local public health administrator except as authorized by law or necessary to respond**  
44 **to a public health emergency.**

45 (b) The authority of the [*Department of Human Services*] **Public Health Director** to take ad-

1 ministrative action, and the effectiveness of any action taken, under paragraph (a)(A), (B), [and]  
 2 (D), (E) and (F) of this subsection terminates upon the expiration of the proclaimed state of [*im-*  
 3 *pending public health crisis*] **public health emergency**, unless the actions are continued under other  
 4 applicable law.

5 (2) Civil penalties under subsection (1) of this section shall be imposed in the manner provided  
 6 in ORS 183.745. The [*Department of Human Services*] **Public Health Director** must establish that the  
 7 individual, institution or facility subject to the civil penalty had actual notice of the action taken  
 8 that is the basis for the penalty. The maximum aggregate total for penalties that may be imposed  
 9 against an individual, institution or facility under subsection (1) of this section is \$500 for each day  
 10 of violation, regardless of the number of violations of subsection (1) of this section that occurred  
 11 on each day of violation.

12 (3)(a) During a proclaimed state of [*impending public health crisis*] **public health emergency**,  
 13 the [*Department of Human Services*] **Public Health Director** and local public health administrators  
 14 shall be given immediate access to individually identifiable health information necessary to:

15 (A) Determine the causes of an illness related to the [*impending public health crisis*] **public**  
 16 **health emergency**;

17 (B) Identify persons at risk;

18 (C) Identify patterns of transmission;

19 (D) Provide treatment; and

20 (E) Take steps to control the disease.

21 (b) Individually identifiable health information accessed as provided by paragraph (a) of this  
 22 subsection may not be used for conducting nonemergency epidemiologic research or to identify  
 23 persons at risk for post-traumatic mental health problems, **or for any other purpose except the**  
 24 **purposes listed in paragraph (a) of this subsection.**

25 (c) Individually identifiable health information obtained by the [*Department of Human Services*]  
 26 **Public Health Director** or local public health administrators under this subsection may not be  
 27 disclosed without written authorization of the identified individual except:

28 (A) Directly to the individual who is the subject of the information or to the legal representative  
 29 of that individual;

30 (B) To state, local or federal agencies authorized to receive such information by state or federal  
 31 law;

32 (C) To identify or to determine the cause or manner of death of a deceased individual; or

33 (D) Directly to a health care provider[, *institution or facility*] for the evaluation or treatment of  
 34 a condition that is the subject of a proclamation of a state of [*impending public health crisis*] **public**  
 35 **health emergency** issued under ORS 433.441.

36 (d) Upon expiration of the state of [*impending public health crisis*] **public health emergency**,  
 37 the [*Department of Human Services*] **Public Health Director** or local public health administrators  
 38 may not use or disclose any individually identifiable health information that has been obtained under  
 39 [*subsections (1) to (4) of*] this section. If a state of emergency that is related to the state of [*im-*  
 40 *pending public health crisis*] **public health emergency** has been declared under 401.055, the [*De-*  
 41 *partment of Human Services*] **Public Health Director** and local public health administrators may  
 42 continue to use any **individually identifiable** information obtained as provided [*in subsections (1) to*  
 43 *(4) of*] **under** this section until termination of the state of emergency.

44 (4) As used in [*subsections (1) to (4) of*] this section:

45 (a) "Covered entity" means:

- 1 (A) The Children’s Health Insurance Program;
- 2 (B) The Family Health Insurance Assistance Program established under ORS 735.722;
- 3 (C) A health insurer that is an insurer as defined in ORS 731.106 and that issues health insur-
- 4 ance as defined in ORS 731.162;
- 5 (D) The state medical assistance program; and
- 6 (E) A health care provider.
- 7 (b) “Health care provider” includes but is not limited to:
- 8 (A) A psychologist, occupational therapist, clinical social worker, professional counselor or
- 9 marriage and family therapist licensed under ORS chapter 675 or an employee of the psychologist,
- 10 occupational therapist, clinical social worker, professional counselor or marriage and family thera-
- 11 pist;
- 12 (B) A physician, podiatric physician and surgeon, physician assistant or acupuncturist licensed
- 13 under ORS chapter 677 or an employee of the physician, podiatric physician and surgeon, physician
- 14 assistant or acupuncturist;
- 15 (C) A nurse or nursing home administrator licensed under ORS chapter 678 or an employee of
- 16 the nurse or nursing home administrator;
- 17 (D) A dentist licensed under ORS chapter 679 or an employee of the dentist;
- 18 (E) A dental hygienist or denturist licensed under ORS chapter 680 or an employee of the dental
- 19 hygienist or denturist;
- 20 (F) A speech-language pathologist or audiologist licensed under ORS chapter 681 or an employee
- 21 of the speech-language pathologist or audiologist;
- 22 (G) An emergency medical technician certified under ORS chapter 682;
- 23 (H) An optometrist licensed under ORS chapter 683 or an employee of the optometrist;
- 24 (I) A chiropractic physician licensed under ORS chapter 684 or an employee of the chiropractic
- 25 physician;
- 26 (J) A naturopathic physician licensed under ORS chapter 685 or an employee of the naturopathic
- 27 physician;
- 28 (K) A massage therapist licensed under ORS 687.011 to 687.250 or an employee of the massage
- 29 therapist;
- 30 (L) A direct entry midwife licensed under ORS 687.405 to 687.495 or an employee of the direct
- 31 entry midwife;
- 32 (M) A physical therapist licensed under ORS 688.010 to 688.201 or an employee of the physical
- 33 therapist;
- 34 (N) A radiologic technologist licensed under ORS 688.405 to 688.605 or an employee of the
- 35 radiologic technologist;
- 36 (O) A respiratory care practitioner licensed under ORS 688.800 to 688.840 or an employee of the
- 37 respiratory care practitioner;
- 38 (P) A pharmacist licensed under ORS chapter 689 or an employee of the pharmacist;
- 39 (Q) A dietitian licensed under ORS 691.405 to 691.585 or an employee of the dietitian;
- 40 (R) A funeral service practitioner licensed under ORS chapter 692 or an employee of the funeral
- 41 service practitioner;
- 42 (S) A health care facility as defined in ORS 442.015;
- 43 (T) A home health agency as defined in ORS 443.005;
- 44 (U) A hospice program as defined in ORS 443.850;
- 45 (V) A clinical laboratory as defined in ORS 438.010;

1 (W) A pharmacy as defined in ORS 689.005;

2 (X) A diabetes self-management program as defined in ORS 743.694; and

3 (Y) Any other person or entity that furnishes, bills for or is paid for health care in the normal  
4 course of business.

5 (c) **“Individual” means a natural person.**

6 [(c)] (d) “Individually identifiable health information” means any oral or written health infor-  
7 mation in any form or medium that is:

8 (A) Created or received by a covered entity, an employer or a health care provider that is not  
9 a covered entity; and

10 (B) Identifiable to an individual, including demographic information that identifies the individual,  
11 or for which there is a reasonable basis to believe the information can be used to identify an indi-  
12 vidual, and that relates to:

13 (i) The past, present or future physical or mental health or condition of an individual;

14 (ii) The provision of health care to an individual; or

15 (iii) The past, present or future payment for the provision of health care to an individual.

16 (e) **“Legal representative” means attorney at law, person holding a general power of at-  
17 torney, guardian, conservator or any person appointed by a court to manage the personal  
18 or financial affairs of a person, or agency legally responsible for the welfare or support of a  
19 person.**

20 (5) All civil penalties recovered under [subsections (1) to (4) of] this section shall be paid into the  
21 State Treasury and credited to the General Fund and are available for general governmental ex-  
22 penses.

23 **(6) The Public Health Director may request assistance in enforcing orders issued pursu-  
24 ant to this section from state or local law enforcement authorities. If so requested by the  
25 Public Health Director, state and local law enforcement authorities, to the extent resources  
26 are available, shall assist in enforcing orders issued pursuant to this section.**

27 **(7) If the Department of Human Services adopts temporary rules to implement the pro-  
28 visions of this section, the rules adopted are not subject to the provisions of ORS 183.335  
29 (6)(a). The department may amend temporary rules adopted pursuant to this subsection as  
30 often as necessary to respond to the public health emergency.**

31 **SECTION 25.** ORS 433.446 is amended to read:

32 433.446. The Governor may seek assistance under the Emergency Management Assistance  
33 Compact during a state of [impending public health crisis] **public health emergency** to obtain ad-  
34 ditional resources for providing services directly related to mitigation of the crisis.

35 **SECTION 26.** ORS 433.448 is amended to read:

36 433.448. (1)(a) During a state of [impending public health crisis] **public health emergency** pro-  
37 claimed under ORS 433.441 or during a state of emergency declared under ORS 401.055 that is re-  
38 lated to a state of [impending public health crisis] **public health emergency** that has not expired,  
39 the immunization registry and tracking and recall system established under ORS 433.094 may be  
40 used as a vaccination management and tracking system for the purpose of preventing the spread of  
41 diseases that can be prevented by vaccination or for tracking the mass administration of antibiotic  
42 prophylaxis.

43 (b) When being used as authorized by this section, an immunization registry may include persons  
44 of any age, and vaccination records may be shared with authorized users of the registry for purposes  
45 related to the proclaimed state of [impending public health crisis] **public health emergency** without

1 obtaining the prior authorization of the clients of the registry.

2 (2) As used in this section, “client” and “immunization registry” have the meaning given those  
3 terms in ORS 433.090.

4 **SECTION 27.** ORS 433.452 is amended to read:

5 433.452. (1) If the [*Director of Human Services*] **Public Health Director** or the local public  
6 health administrator reasonably believes a person within the jurisdiction of the director or the ad-  
7 ministrator may have been exposed to a communicable disease identified by rule of the Department  
8 of Human Services to be a reportable disease or condition or a condition that is the basis for a state  
9 of [*impending public health crisis*] **public health emergency** declared by the Governor as authorized  
10 by ORS 433.441, the person may be detained for as long as reasonably necessary for the director or  
11 administrator to convey information to the person regarding the communicable disease or condition  
12 and to obtain contact information, including but not limited to the person’s residence and employ-  
13 ment addresses, date of birth, telephone numbers and any other contact information required by the  
14 director or administrator.

15 (2) If a person detained under subsection (1) of this section refuses to provide the information  
16 requested, the director or administrator may impose a public health measure [*pursuant to ORS*  
17 *433.019 and 433.022*] **appropriate to the public health threat presented pursuant to ORS 433.035**  
18 **and sections 8 and 9 of this 2007 Act.**

19 **SECTION 28.** (1) As used in this section:

20 (a) “Contaminated material” means wastes or other materials exposed to or tainted by  
21 chemical, radiological, or biological substances or agents.

22 (b) “Transmissible agent” means a biological substance capable of causing disease or in-  
23 fection through individual to individual transmission, animal to individual transmission, or  
24 other modes of transmission.

25 (2) Notwithstanding any provision in ORS chapter 97 or 692, during a state of public  
26 health emergency, the Public Health Director may:

27 (a) Prescribe measures to provide for the safe disposal of human remains as may be  
28 reasonable and necessary to respond to the public health emergency. Measures adopted un-  
29 der this subsection may include the embalming, burial, cremation, interment, disinterment,  
30 transportation and disposal of human remains.

31 (b) Require any person in charge of disposing of human remains to clearly label the hu-  
32 man remains of a deceased person with a communicable disease or transmissible agent with  
33 an external, clearly visible tag indicating that the human remains are infected or contam-  
34 inated and, if known, the communicable disease or transmissible agent or contaminated  
35 materials present in the remains.

36 (c) After a medical examiner has certified the cause and manner of death, order a person  
37 in charge of disposing of human remains to dispose of the human remains of a person who  
38 has died of a communicable disease or transmissible agent through burial or cremation  
39 within a specified time period. To the extent practicable, religious, cultural, family and indi-  
40 vidual beliefs of the deceased person or the person’s family shall be considered when dispos-  
41 ing of any human remains.

42 (3) The Public Health Director must consult and coordinate with the State Medical Ex-  
43 aminer when exercising authority under this section. Nothing in this section is intended to  
44 override authority granted to the State Medical Examiner or district medical examiner under  
45 ORS 146.003 to 146.165 and 146.710 to 146.992.

1       **SECTION 29.** ORS 433.140 is amended to read:

2       433.140. (1) The expenses incurred under [*ORS 433.135*] **section 12 of this 2007 Act**, when  
3 properly certified by the [*executive officer of such board*] **local public health administrator**, shall  
4 be paid by the person **who is isolated or** quarantined, when **the person is** able to pay [*them*] **the**  
5 **expenses**.

6       (2) The Department of Human Services may provide general assistance, including medical care  
7 for [*such person*] **the person who is isolated or quarantined**, on the basis of need, provided that  
8 no payment shall be made for the care of any such person in or under the care of any public insti-  
9 tution or public agency or municipality.

10       **SECTION 30.** ORS 433.990 is amended to read:

11       433.990. (1) Violation of ORS 433.004 or 433.008, 433.255, 433.260 or 433.715 is a Class A  
12 misdemeanor.

13       (2) Violation of ORS 433.010 is punishable, upon conviction, by imprisonment in the custody of  
14 the Department of Corrections for not more than three years.

15       (3) Violation of ORS 433.035 is punishable upon conviction by a fine of not less than \$10 nor  
16 more than \$100, or by imprisonment for not less than 10 days nor more than 30 days, or by both.

17       **(4) Violation of section 13 of this 2007 Act is a Class D violation punishable by fines to-**  
18 **taling not more than \$50 per day, not to exceed \$1,000 in any 30-day period.**

19       [(4)] **(5)** Violation of ORS 433.850 is a Class D violation punishable by fines totaling not more  
20 than \$50 per day, not to exceed \$1,000 in any 30-day period.

21       [(5)] **(6)** Violation of ORS 433.345 or 433.365 is a Class B violation. Failure to obey any lawful  
22 order of the Director of Human Services issued under ORS 433.350 is a Class C misdemeanor.

23       [(6)] **(7)** Any organizer, as defined in ORS 433.735, violating ORS 433.745 is punishable, upon  
24 conviction, by a fine of not more than \$10,000.

25       **SECTION 31.** ORS 433.390 is amended to read:

26       433.390. (1) All moneys received by a county under ORS 433.340 to 433.390 and 433.990 [(5)] **(6)**  
27 shall be paid to the county dog control fund.

28       (2) The governing body of the county may, in the event of a rabies outbreak within the county,  
29 use such portion of the dog control fund as it deems necessary to purchase rabies vaccine for ad-  
30 ministration to animals under the direction of the state and local health officers.

31       **SECTION 32.** ORS 433.735 is amended to read:

32       433.735. As used in ORS 433.735 to 433.770 and 433.990 [(6)] **(7)**:

33       (1) "Outdoor mass gathering," unless otherwise defined by county ordinance, means an actual  
34 or reasonably anticipated assembly of more than 3,000 persons which continues or can reasonably  
35 be expected to continue for more than 24 consecutive hours but less than 120 hours within any  
36 three-month period and which is held primarily in open spaces and not in any permanent structure.

37       (2) "Organizer" includes any person who holds, stages or sponsors an outdoor mass gathering  
38 and the owner, lessee or possessor of the real property upon which the outdoor mass gathering is  
39 to take place.

40       (3) "Permanent structure" includes a stadium, an arena, an auditorium, a coliseum, a fairgrounds  
41 or other similar established places for assemblies.

42       (4) "Temporary structure" includes tents, trailers, chemical toilet facilities and other structures  
43 customarily erected or sited for temporary use.

44       **SECTION 33.** ORS 433.755 is amended to read:

45       433.755. (1) In reviewing an application for a permit to hold an outdoor mass gathering, the

1 county governing body may require such plans, specifications and reports as it may deem necessary  
 2 for proper review and it may request and shall receive from all public officers, departments and  
 3 agencies of the state and its political subdivisions such cooperation and assistance as it may deem  
 4 necessary. If the county governing body determines upon examination of the permit application that  
 5 the outdoor mass gathering creates a potential for injury to persons or property, the county gov-  
 6 erning body may require organizers to obtain an insurance policy in an amount commensurate with  
 7 the risk, but not exceeding \$1 million. The policy of casualty insurance shall provide coverage  
 8 against liability for death, injury or disability of any human or for damage to property arising out  
 9 of the outdoor mass gathering. The county shall be named as an additional insured under the policy.

10 (2) In the event of failure to remove all debris or residue and repair any damage to personal or  
 11 real property arising out of the outdoor mass gathering within 72 hours after its termination and  
 12 to remove any temporary structures used at the outdoor mass gathering within three weeks after  
 13 its termination, the county governing body may file suit against the organizer for financial settle-  
 14 ment as is needed to remove debris, residue or temporary structures and to repair such damage to  
 15 real or personal property of persons not attending the outdoor mass gathering. The organizer shall  
 16 be wholly responsible for payment of any fines imposed under ORS 433.990 [(6)] (7).

17 **SECTION 34.** ORS 433.765 is amended to read:

18 433.765. Ordinances or regulations of a county enacted under a county charter adopted pursuant  
 19 to section 10, Article VI, Oregon Constitution, and not inconsistent with ORS 433.735 to 433.770 and  
 20 433.990 [(6)] (7) or any rules adopted under ORS 433.735 to 433.770 and 433.990 [(6)] (7), are not su-  
 21 perseded by ORS 433.735 to 433.770 and 433.990 [(6)] (7) or such rules. Nothing in ORS 433.735 to  
 22 433.770 and 433.990 [(6)] (7) or any rules adopted under ORS 433.735 to 433.770 and 433.990 [(6)] (7)  
 23 precludes the right of a county to enact ordinances or regulations under a county charter if such  
 24 ordinances or regulations are not inconsistent with ORS 433.735 to 433.770 and 433.990 [(6)] (7) or  
 25 any rules adopted under ORS 433.735 to 433.770 and 433.990 [(6)] (7).

26 **SECTION 35.** ORS 433.767 is amended to read:

27 433.767. ORS 433.735 to 433.770 and 433.990 [(6)] (7) apply to outdoor mass gatherings defined  
 28 by county ordinance as well as to those defined by ORS 433.735 (1).

29 **SECTION 36.** ORS 433.855 is amended to read:

30 433.855. (1) The Department of Human Services, in accordance with the provisions of ORS  
 31 chapter 183:

32 (a) Shall adopt rules necessary to implement the provisions of ORS 433.835 to 433.875 and  
 33 433.990 [(4)] (5);

34 (b) Shall be responsible for compliance with such rules; and

35 (c) May impose a civil penalty not to exceed the amount specified in ORS 433.990 [(4)] (5) for  
 36 each violation of a rule of the department applicable to ORS 433.850, to be collected in the manner  
 37 provided in ORS 441.705 to 441.745. All penalties recovered shall be paid into the State Treasury  
 38 and credited to the General Fund.

39 (2) In carrying out its duties under this section, the Department of Human Services is not au-  
 40 thorized to require any changes in ventilation or barriers in any public place. However, nothing in  
 41 this subsection is intended to limit the authority of the department to impose any requirements un-  
 42 der any other provision of law.

43 (3) In public places which the Department of Human Services regularly inspects, the Department  
 44 of Human Services shall check for compliance with the provisions of ORS 433.835 to 433.875 and  
 45 433.990 [(4)] (5). In other public places, the Department of Human Services shall respond in writing

1 or orally by telephone to complaints, notifying the proprietor or person in charge of responsibilities  
2 of the proprietor or person in charge under ORS 433.835 to 433.875 and 433.990 [(4)] (5). If repeated  
3 complaints are received, the Department of Human Services may take appropriate action to insure  
4 compliance.

5 (4) When a county has received delegation of the duties and responsibilities under ORS 446.425  
6 and 448.100, or contracted with the Department of Human Services under ORS 190.110, the county  
7 shall be responsible for enforcing the provisions of ORS 433.835 to 433.875 and 433.990 [(4)] (5) that  
8 are applicable to those licensed facilities and shall have the same authority as the Department of  
9 Human Services for such enforcement.

10 **SECTION 37.** ORS 433.865 is amended to read:

11 433.865. Upon request, the Department of Human Services may waive the provisions of ORS  
12 433.835 to 433.875 and 433.990 [(4)] (5) for any public place if it determines that:

13 (1) There are valid reasons to do so; and

14 (2) A waiver will not significantly affect the health and comfort of nonsmokers.

15 **SECTION 38.** ORS 433.875 is amended to read:

16 433.875. ORS 433.835 to 433.875 and 433.990 [(4)] (5) shall be cited as the Oregon Indoor Clean  
17 Air Act.

18 **SECTION 39.** ORS 401.657 is amended to read:

19 401.657. (1) The Department of Human Services may designate all or part of a health care fa-  
20 cility or other location as an emergency health care center. Upon the Governor declaring a state  
21 of emergency under ORS 401.055, or proclaiming a state of [*impending public health crisis*] **public**  
22 **health emergency** after determining that a threat to the public health is imminent and likely to  
23 be widespread, life-threatening and of a scope that requires immediate medical action to protect the  
24 public health, emergency health care centers may be used for:

25 (a) Evaluation and referral of individuals affected by the emergency [*or crisis*];

26 (b) Provision of health care services; and

27 (c) Preparation of patients for transportation.

28 (2) The department may enter into cooperative agreements with local public health authorities  
29 that allow local public health authorities to designate emergency health care centers under this  
30 section.

31 (3) An emergency health care center designated under this section must have an emergency  
32 operations plan and a credentialing plan that governs the use of emergency health care providers  
33 registered under ORS 401.654 and other health care providers who volunteer to perform health care  
34 services at the center under ORS 401.651 to 401.670. The emergency operations plan and creden-  
35 tialing plan must comply with rules governing those plans adopted by the department.

36 **SECTION 40.** ORS 401.661 is amended to read:

37 401.661. Upon the Governor declaring a state of emergency under ORS 401.055, or proclaiming  
38 a state of [*impending public health crisis*] **public health emergency** after determining that a threat  
39 to the public health is imminent and likely to be widespread, life-threatening and of a scope that  
40 requires immediate medical action to protect the public health:

41 (1) The Department of Human Services may direct emergency health care providers registered  
42 under ORS 401.654 who are willing to provide health care services on a voluntary basis to proceed  
43 to any place in this state where health care services are required by reason of the emergency or  
44 crisis; and

45 (2) Any emergency health care provider registered under ORS 401.654 or other health care

1 provider may volunteer to perform health care services described in ORS 401.657 at any emergency  
2 health care center or health care facility in the manner provided by ORS 401.664.

3 **SECTION 41.** ORS 466.605 is amended to read:

4 466.605. As used in ORS 466.605 to 466.680 and 466.990 (3) and (4):

5 (1) "Barrel" means 42 U.S. gallons at 60 degrees Fahrenheit.

6 (2) "Cleanup" means the containment, collection, removal, treatment or disposal of oil or haz-  
7 arduous material; site restoration; and any investigations, monitoring, surveys, testing and other in-  
8 formation gathering required or conducted by the Department of Environmental Quality.

9 (3) "Cleanup costs" means all costs associated with the cleanup of a spill or release incurred  
10 by the state, its political subdivision or any person with written approval from the department when  
11 implementing ORS 466.205, 466.605 to 466.680, 466.990 (3) and (4) and 466.995 (2) or 468B.320.

12 (4) "Commission" means the Environmental Quality Commission.

13 (5) "Department" means the Department of Environmental Quality.

14 (6) "Director" means the Director of the Department of Environmental Quality.

15 (7) "Hazardous material" means one of the following:

16 (a) A material designated by the commission under ORS 466.630.

17 (b) Hazardous waste as defined in ORS 466.005.

18 (c) Radioactive waste as defined in ORS 469.300, radioactive material identified by the Energy  
19 Facility Siting Council under ORS 469.605 and radioactive substances as defined in ORS 453.005.

20 (d) Communicable disease agents as regulated by the Department of Human Services under [*ORS*  
21 *chapter 431 and*] ORS **431.035 to 431.530**, [*433.010*] **433.001** to 433.045 and 433.106 to [*433.990*]  
22 **433.770**.

23 (e) Hazardous substances designated by the United States Environmental Protection Agency  
24 under section 311 of the Federal Water Pollution Control Act, P.L. 92-500, as amended.

25 (8) "Oils" or "oil" includes gasoline, crude oil, fuel oil, diesel oil, lubricating oil, sludge, oil re-  
26 fuse and any other petroleum related product.

27 (9) "Person" means an individual, trust, firm, joint stock company, corporation, partnership, as-  
28 sociation, municipal corporation, political subdivision, interstate body, the state and any agency or  
29 commission thereof and the federal government and any agency thereof.

30 (10) "Reportable quantity" means one of the following:

31 (a) A quantity designated by the commission under ORS 466.625.

32 (b) The lesser of:

33 (A) The quantity designated for hazardous substances by the United States Environmental Pro-  
34 tection Agency pursuant to section 311 of the Federal Water Pollution Control Act, P.L. 92-500, as  
35 amended;

36 (B) The quantity designated for hazardous waste under ORS 466.005 to 466.385, 466.990 (1) and  
37 (2) and 466.992;

38 (C) Any quantity of radioactive material, radioactive substance or radioactive waste;

39 (D) If spilled into waters of the state, or escape into waters of the state is likely, any quantity  
40 of oil that would produce a visible oily slick, oily solids, or coat aquatic life, habitat or property  
41 with oil, but excluding normal discharges from properly operating marine engines; or

42 (E) If spilled on land, any quantity of oil over one barrel.

43 (c) Ten pounds unless otherwise designated by the commission under ORS 466.625.

44 (11) "Respond" or "response" means:

45 (a) Actions taken to monitor, assess and evaluate a spill or release or threatened spill or release

1 of oil or hazardous material;

2 (b) First aid, rescue or medical services, and fire suppression; or

3 (c) Containment or other actions appropriate to prevent, minimize or mitigate damage to the  
4 public health, safety, welfare or the environment which may result from a spill or release or  
5 threatened spill or release if action is not taken.

6 (12) "Spill or release" means the discharge, deposit, injection, dumping, spilling, emitting, re-  
7 leasing, leaking or placing of any oil or hazardous material into the air or into or on any land or  
8 waters of the state, as defined in ORS 468B.005, except as authorized by a permit issued under ORS  
9 chapter 454, 459, 459A, 468, 468A, 468B or 469, ORS 466.005 to 466.385, 466.990 (1) and (2) or 466.992  
10 or federal law or while being stored or used for its intended purpose.

11 (13) "Threatened spill or release" means oil or hazardous material is likely to escape or be  
12 carried into the air or into or on any land or waters of the state.

13 **SECTION 42. ORS 431.140, 433.019, 433.022, 433.106, 433.130 and 433.135 are repealed.**

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