

B-Engrossed
Senate Bill 105

Ordered by the House May 3
Including Senate Amendments dated March 9 and House Amendments
dated May 3

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Theodore R. Kulongoski for Department of Environmental Quality)

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.

Increases fees assessed on certain vessels and offshore and onshore facilities for certain programs related to oil spills. Specifies that fees for nonself-propelled tank vessels are based on capacity.

Requires Department of Environmental Quality to publish annual report regarding fees and activities relating to oil spill response.

Modifies definition of "oil" for purposes of environmental quality statutes.

Specifies that statutes relating to oil or hazardous material spillage apply to liquefied natural gas while gas is in transit or at receiving facility.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to oil spills; creating new provisions; amending ORS 468B.300 and 468B.405; and declaring
3 an emergency.

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

5 **SECTION 1.** ORS 468B.405 is amended to read:

6 468B.405. (1) The Department of Environmental Quality shall assess the following fees on covered
7 vessels and offshore and onshore facilities to recover the costs of reviewing the plans and
8 conducting the inspections, exercises, training and activities required under ORS 468B.345 to
9 468B.400 *[on all]*:

10 (a) Cargo and passenger vessels, [~~\$48~~] **\$70** per trip.

11 (b) Nonself-propelled tank vessels, [~~\$42 per trip~~]:

12 **(A) Having a capacity of fewer than 25,000 barrels, \$60 per trip.**

13 **(B) Having a capacity of 25,000 to 99,999 barrels, \$70 per trip.**

14 **(C) Having a capacity of 100,000 or more barrels, \$100 per trip.**

15 (c) Self-propelled tank vessels of 300 gross tons or less, [~~\$42~~] **\$60** per trip.

16 (d) Self-propelled tank vessels over 300 gross tons, [~~\$836~~] **\$1,200** per trip.

17 (e) Offshore and onshore facilities, [~~\$4,500~~] **\$5,900** per year.

18 (f) Dredge vessels, [~~\$24~~] **\$36** per day when operating in the navigable waters of the state.

19 (2) Moneys collected under this section shall be deposited in the State Treasury to the credit
20 of the Oil Spill Prevention Fund established under ORS 468B.410.

21 (3) As used in this section, "trip" means travel to the appointed destination and return travel
22 to the point of origin within the navigable waters of this state. For the purpose of assessing trip fees

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 under this section, self-propelled tank vessels transiting the navigable waters of this state in ballast
2 shall be considered cargo vessels.

3 **SECTION 2. (1) By September 30 of each year, beginning in 2008, the Department of En-**
4 **vironmental Quality shall publish a report for the previous fiscal year, commencing on July**
5 **1 and ending on June 30, that addresses:**

6 (a) **The fees assessed under ORS 468B.405 on covered vessels and offshore and onshore**
7 **facilities; and**

8 (b) **The activities of the department under ORS 468B.410 (4).**

9 (2)(a) **The report published by the department under this section must be in a format**
10 **that allows for the monitoring of fee collection and related activities by the department and**
11 **for ensuring that adequate but not excessive fees are collected to meet the department's**
12 **budgetary needs.**

13 (b) **The department shall make the report available to those who paid fees under ORS**
14 **468B.405 and to the general public.**

15 **SECTION 3.** ORS 468B.300 is amended to read:

16 468B.300. As used in ORS 468.020, 468.095, 468.140 (3) and 468B.300 to 468B.500:

17 (1) "Bulk" means material stored or transported in loose, unpackaged liquid, powder or granular
18 form capable of being conveyed by a pipe, bucket, chute or belt system.

19 (2) "Cargo vessel" means a self-propelled ship in commerce, other than a tank vessel, of 300
20 gross tons or more. "Cargo vessel" does not include a vessel used solely for commercial fish har-
21 vesting.

22 (3) "Commercial fish harvesting" means taking food fish with any gear unlawful for angling un-
23 der ORS 506.006, or taking food fish in excess of the limits permitted for personal use, or taking food
24 fish with the intent of disposing of such food fish or parts thereof for profit, or by sale, barter or
25 trade, in commercial channels.

26 (4) "Contingency plan" means an oil spill prevention and emergency response plan required un-
27 der ORS 468B.345.

28 (5) "Covered vessel" means a tank vessel, cargo vessel, passenger vessel or dredge vessel.

29 (6) "Damages" includes damages, costs, losses, penalties or attorney fees of any kind for which
30 liability may exist under the laws of this state resulting from, arising out of or related to the dis-
31 charge or threatened discharge of oil.

32 (7) "Discharge" means any emission other than natural seepage of oil, whether intentional or
33 unintentional. "Discharge" includes but is not limited to spilling, leaking, pumping, pouring, emit-
34 ting, emptying or dumping oil.

35 (8) "Dredge vessel" means a self-propelled vessel of 300 or more gross tons that is equipped for
36 regularly engaging in dredging of submerged and submersible lands.

37 (9) "Exploration facility" means a platform, vessel or other offshore facility used to explore for
38 oil in the navigable waters of the state. "Exploration facility" does not include platforms or vessels
39 used for stratigraphic drilling or other operations that are not authorized or intended to drill to a
40 producing formation.

41 (10) "Facility" means a pipeline or any structure, group of structures, equipment or device, other
42 than a vessel located on or near navigable waters of a state, that is used for producing, storing,
43 handling, transferring, processing or transporting oil in bulk and that is capable of storing or
44 transporting 10,000 or more gallons of oil. "Facility" does not include:

45 (a) A railroad car, motor vehicle or other rolling stock while transporting oil over the highways

1 or rail lines of this state;

2 (b) An underground storage tank regulated by the Department of Environmental Quality or a
3 local government under ORS 466.706 to 466.882 and 466.994; or

4 (c) Any structure, group of structures, equipment or device, other than a vessel located on or
5 near navigable waters of a state, that is used for producing, storing, handling, transferring, pro-
6 cessing or transporting oil in bulk and that is capable of storing or transporting 10,000 or more
7 gallons of oil but does not receive oil from tank vessels, barges or pipelines.

8 (11) "Federal on-scene coordinator" means the federal official predesignated by the United
9 States Environmental Protection Agency or the United States Coast Guard to coordinate and direct
10 federal responses or the official designated by the lead agency to coordinate and direct removal
11 under the National Contingency Plan.

12 (12) "Hazardous material" has the meaning given that term in ORS 466.605.

13 (13) "Maritime association" means an association or cooperative of marine terminals, facilities,
14 vessel owners, vessel operators, vessel agents or other maritime industry groups, that provides oil
15 spill response planning and spill related communications services within the state.

16 (14) "Maximum probable spill" means the maximum probable spill for a vessel operating in the
17 navigable waters of the state considering the history of spills of vessels of the same class operating
18 on the west coast of the United States.

19 (15) "Navigable waters" means the Columbia River, the Willamette River up to Willamette Falls,
20 the Pacific Ocean and estuaries to the head of tidewater.

21 (16) "National Contingency Plan" means the plan prepared and published under section 311(d)
22 of the Federal Water Pollution Control Act, 33 U.S.C. 1321(d), as amended by the Oil Pollution Act
23 of 1990 (P.L. 101-380).

24 (17) "Offshore facility" means any facility located in, on or under any of the navigable waters
25 of the state.

26 (18) "Oils" or "oil" means oil, including gasoline, crude oil, fuel oil, diesel oil, lubricating oil,
27 sludge, oil refuse and any other petroleum related product **and liquefied natural gas**.

28 (19) "Onshore facility" means any facility located in, on or under any land of the state, other
29 than submerged land, that, because of its location, could reasonably be expected to cause substantial
30 harm to the environment by discharging oil into or on the navigable waters of the state or adjoining
31 shorelines.

32 (20) "Passenger vessel" means a ship of 300 or more gross tons carrying passengers for com-
33 pensation.

34 (21) "Person" has the meaning given the term in ORS 468.005.

35 (22) "Person having control over oil" includes but is not limited to any person using, storing or
36 transporting oil immediately prior to entry of such oil into the navigable waters of the state, and
37 shall specifically include carriers and bailees of such oil.

38 (23) "Pipeline" means a facility, including piping, compressors, pump stations and storage tanks,
39 used to transport oil between facilities or between facilities and tank vessels.

40 (24) "Region of operation" with respect to the holder of a contingency plan means the area
41 where the operations of the holder that require a contingency plan are located.

42 (25) "Removal costs" means the costs of removal that are incurred after a discharge of oil has
43 occurred or, in any case in which there is a substantial threat of a discharge of oil, the costs to
44 prevent, minimize or mitigate oil pollution from the incident.

45 (26) "Responsible party" has the meaning given under section 1001 of the Oil Pollution Act of

1 1990 (P.L. 101-380).

2 (27) "Ship" means any boat, ship, vessel, barge or other floating craft of any kind.

3 (28)(a) "State on-scene coordinator" means the state official appointed by the Department of
4 Environmental Quality to represent the department and the State of Oregon in response to an oil
5 or hazardous material spill or release or threatened spill or release and to coordinate cleanup re-
6 sponse with state and local agencies.

7 (b) For purposes of this subsection:

8 (A) "Spill or release" means the discharge, deposit, injection, dumping, spilling, emitting, re-
9 leasing, leaking or placing of any oil or hazardous material into the air or into or on any land or
10 waters of this state except as authorized by a permit issued under ORS chapter 454, 459, 459A, 468,
11 468A, 468B or 469 or ORS 466.005 to 466.385, 466.990 (1) and (2) or 466.992 or federal law, or except
12 when being stored or used for its intended purpose.

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

15 (29) "Tank vessel" means a ship that is constructed or adapted to carry oil in bulk as cargo or
16 cargo residue. "Tank vessel" does not include:

17 (a) A vessel carrying oil in drums, barrels or other packages;

18 (b) A vessel carrying oil as fuel or stores for that vessel; or

19 (c) An oil spill response barge or vessel.

20 (30) "Worst case spill" means:

21 (a) In the case of a vessel, a spill of the entire cargo and fuel of the tank vessel complicated
22 by adverse weather conditions; and

23 (b) In the case of an onshore or offshore facility, the largest foreseeable spill in adverse weather
24 conditions.

25 **SECTION 4. Section 5 of this 2007 Act is added to and made a part of ORS 468B.300 to**
26 **468B.500.**

27 **SECTION 5. The provisions of ORS 468B.300 to 468B.500 apply to liquefied natural gas**
28 **while the gas is in transit through the navigable waters of the state or while the gas is at**
29 **a facility that receives liquefied natural gas from a vessel.**

30 **SECTION 6. (1) The amendments to ORS 468B.405 (1)(a), (b), (c), (d) and (f) by section 1**
31 **of this 2007 Act apply to fees assessed on or after August 1, 2007, or on or after the first day**
32 **of the calendar month following the effective date of this 2007 Act, whichever is later.**

33 **(2) The amendments to ORS 468B.405 (1)(e) by section 1 of this 2007 Act apply only to fees**
34 **attributable to fiscal years beginning on or after July 1, 2007.**

35 **SECTION 7. This 2007 Act being necessary for the immediate preservation of the public**
36 **peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect**
37 **on its passage.**

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