

SENATE AMENDMENTS TO SENATE BILL 338

By COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

April 20

1 On page 1 of the printed bill, line 2, after “ORS” insert “105.464,”.

2 Delete lines 6 through 27 and delete pages 2 through 8 and insert:

3 “**SECTION 1.** ORS 468A.460 is amended to read:

4 “468A.460. In the interest of the public health and welfare it is declared to be the public policy
5 of the state to control, reduce and prevent air pollution caused by [*woodstove emissions*] **solid fuel**
6 **burning devices**. The Legislative Assembly declares it to be the public policy of the state to reduce
7 [*woodstove*] **solid fuel burning device** emissions by encouraging the Department of Environmental
8 Quality to continue efforts to educate the public about the **air quality** effects of [*woodstove*] **those**
9 emissions and [*the desirability of achieving better woodstove*] **by ensuring that solid fuel burning**
10 **devices used in Oregon meet** emission performance [*and heating efficiency*] **standards established**
11 **in accordance with this section.**

12 “**SECTION 2.** ORS 468A.465 is amended to read:

13 “468A.465. (1) [*On and after July 1, 1986,*] A person may not advertise to sell, offer to sell or
14 sell a new [*woodstove*] **solid fuel burning device** in Oregon unless, **pursuant to rules adopted by**
15 **the Environmental Quality Commission, the Department of Environmental Quality certifies**
16 **that the device meets emission performance standards, certification labeling standards and**
17 **all other requirements set forth in rules adopted by the commission.[.]**

18 “[*(1) The woodstove has been tested to determine its emission performance and heating efficiency;*]

19 “[*(2) The woodstove is certified by the Department of Environmental Quality under the program*
20 *established under ORS 468A.480 (1); and*]

21 “**(2) The department may certify a solid fuel burning device that has been certified by the**
22 **United States Environmental Protection Agency pursuant to 40 C.F.R. part 60, subpart AAA,**
23 **as in effect on the day the commission adopts rules under subsection (1) of this section.**

24 “[*(3) An emission performance and heating efficiency label is attached to the woodstove.*]

25 “**SECTION 3.** ORS 468A.485 is amended to read:

26 “468A.485. [*As used in ORS 468A.490:*]

27 “[*(1) ‘Area that exceeds the PM10 standard’ means an area of the state that exceeds, on or after*
28 *January 1, 1990, the air quality standard for PM10 as established by the Environmental Quality*
29 *Commission under ORS 468A.025.*]

30 “[*(2) ‘Western interior valleys’ means the area of the state encompassed by the borders of the States*
31 *of Washington and California and the crests of the Cascade Mountain Range on the east and the Coast*
32 *Range on the west.*]

33 “**(1) For the purposes of ORS 468A.020 and 468A.460 to 468A.515:**

34 “**(a) ‘Pellet stove’ means a solid fuel burning device that uses wood pellets, or other**
35 **biomass fuels designed for use in pellet stoves, as its primary source of fuel. The Environ-**

1 **mental Quality Commission may by rule further define what constitutes a pellet stove.**

2 **“(b) ‘Residential structure’ has the meaning given that term in ORS 701.005.**

3 **“(c) ‘Solid fuel burning device’ means any device that burns wood, coal or other**
4 **nongaseous or nonliquid fuels for aesthetic, space heating or water heating purposes in a**
5 **private or commercial establishment and that has a heat output of less than one million**
6 **British thermal units per hour.**

7 **“(d) ‘Treated wood’ means wood of any species that has been chemically impregnated,**
8 **painted or similarly modified to prevent weathering and deterioration.**

9 **“(2) For the purposes of ORS 468A.465 to 468A.505 and section 17 of this 2007 Act, ‘solid**
10 **fuel burning device’ does not include:**

11 **“(a) Masonry fireplaces built on homesites, or factory-built fireplaces, that are designed**
12 **to be used with an open combustion chamber and without features to control air-to-fuel ra-**
13 **tios;**

14 **“(b) Woodstoves built before 1940 that have an ornate construction and a current market**
15 **value substantially higher than a common woodstove manufactured during the same period;**

16 **“(c) Pellet stoves; and**

17 **“(d) Other solid fuel burning devices identified in rules adopted by the commission.**

18 **“SECTION 4. Section 5 of this 2007 Act is added to and made a part of ORS 468A.460 to**
19 **468A.515.**

20 **“SECTION 5. A person may not cause or allow any of the following materials to be**
21 **burned in a solid fuel burning device, fireplace or trash burner:**

22 **“(1) Garbage;**

23 **“(2) Treated wood;**

24 **“(3) Plastic or plastic products;**

25 **“(4) Rubber or rubber products;**

26 **“(5) Animal carcasses;**

27 **“(6) Products that contain asphalt;**

28 **“(7) Waste petroleum products;**

29 **“(8) Paint;**

30 **“(9) Chemicals;**

31 **“(10) Paper or paper products, except for paper used to kindle a fire; or**

32 **“(11) Any other materials described in rules adopted by the Environmental Quality**
33 **Commission.**

34 **“SECTION 6. ORS 468A.490 is amended to read:**

35 **“468A.490. (1) There is created within the State Treasury a fund known as the Residential**
36 **[Wood] Solid Fuel Heating Air Quality Improvement Fund, separate and distinct from the General**
37 **Fund.**

38 **“(2) All moneys appropriated or received as gifts or grants for the purposes of this section **and****
39 **all moneys recovered by the Department of Environmental Quality under ORS 468.135 (3)**
40 **shall be credited to the Residential [Wood] Solid Fuel Heating Air Quality Improvement Fund.**

41 **“(3) The State Treasurer may invest and reinvest the moneys in the fund as provided in ORS**
42 **293.701 to 293.820. Interest from the moneys deposited in the fund and earnings from investment of**
43 **the moneys in the fund shall accrue to the fund.**

44 **“(4) All moneys in the [Residential Wood Heating Air Quality Improvement] fund are contin-**
45 **uously appropriated to the Department of Environmental Quality to:**

1 “(a) Pay all costs incurred by the department in maintaining residential wood heating emissions
2 inventories, analyzing projects and programs proposed for funding in accordance with this section,
3 administering projects and programs selected for funding in accordance with this section and imple-
4 menting the requirements of ORS 468A.475 (2) and 468A.480 (1)(g).]

5 “(a) **Pay all costs incurred by the department for evaluating projects and programs, in-**
6 **cluding projects and programs proposed by local communities or qualifying organizations, for**
7 **project management and oversight of funds awarded for projects and programs selected in**
8 **accordance with this section and for documenting the benefit to air quality from such**
9 **projects.**

10 “(b) **Fund programs established under subsection (5) of this section in a manner designed**
11 **to reduce the emission of air contaminants.**

12 “(b) Pay all reasonable costs as determined by the Environmental Quality Commission for local
13 government and regional authority public education, emission inventory maintenance, curtailment and
14 opacity programs to reduce residential wood heating emission in an area that exceeds the PM10
15 standard or an area that is at risk of becoming an area that exceeds the PM10 standard.]

16 “(c) To the extent moneys remain in the fund after paying the costs under paragraphs (a) and (b)
17 of this subsection, to Fund programs established under subsections (5) and (6) of this section in a
18 manner designed to achieve cost-beneficial reductions in emission of air contaminants from woodstoves,
19 attain federal ambient air quality standards before deadlines specified in the Clean Air Act and
20 maintain compliance with such standards after the deadlines established in the Clean Air Act.]

21 “(d) Not more than 15 percent of the total amount of moneys received under this section shall be
22 expended for costs under paragraphs (a) and (b) of this subsection.]

23 “(5) A portion of the moneys available under subsection (4) of this section shall be used by the
24 Environmental Quality Commission to fund a low or no interest loan program for wood heated house-
25 holds located in the western interior valleys or in any other county containing an area that exceeds the
26 PM10 standard to replace woodstoves that were not certified under ORS 468A.480 for sale as new on
27 or after July 1, 1986. The program shall include the following elements:]

28 “(5) **The moneys available under subsection (4) of this section shall be used by the De-**
29 **partment of Environmental Quality to establish a program to provide grants, loans or other**
30 **subsidies for the replacement or removal of solid fuel burning devices that were not certified**
31 **to meet emission performance standards adopted by the Environmental Quality Commission**
32 **under ORS chapter 468A for sale as new on or after July 1, 1986, and before the effective date**
33 **of this 2007 Act, do not have a department certification label attached or were not certified**
34 **by the department pursuant to ORS 468A.465. In addition to any other requirements estab-**
35 **lished by rules adopted by the commission, the program shall provide that:**

36 “(a) All forms of new high-efficiency, low air contaminant-emitting heating systems are
37 allowed, **except vent-free heating appliances;**

38 “(b) Any [removed woodstove] **solid fuel burning device removed under the program** must be
39 destroyed;

40 “(c) Any replacement [woodstoves] **device** selected under the program must be installed in con-
41 formance with building code requirements and the manufacturer’s specifications including but not
42 limited to [chimney] **venting** specifications; and

43 “(d) To be eligible, program participants shall participate in any home energy audit program
44 provided at no charge to the homeowner and shall obtain all information available regarding subsi-
45 dies for cost-effective weatherization. The department shall make the information required in this

1 subsection readily available to program participants.

2 “[(6) A portion of the moneys available under subsection (4) of this section shall be used by the
3 commission to fund local government or regional authority programs to provide subsidies for replace-
4 ment of woodstoves that were not certified under ORS 468A.480 for sale as new on or after July 1,
5 1986, to low income persons in wood heated households in an area that exceeds the PM10 standard.
6 The local government or regional authority programs must include the following elements to be eligible
7 for funding:]

8 “[(a) All forms of new high-efficiency, low emitting heating systems are allowed.]

9 “[(b) All woodstoves removed are destroyed.]

10 “[(c) The local government or regional authority adopts and enforces an ordinance that limits
11 emissions from woodstoves to no visible smoke, except for steam and heat waves, during periods of air
12 stagnation and to an average of 20 percent opacity at all other times except during start up and refu-
13 eling as determined by the commission. This requirement shall not be in lieu of any final stage of
14 woodstove curtailment required during air stagnation if the final stage of curtailment is necessary to
15 prevent exceeding air quality standards established under ORS 468A.025 by the latest date allowed
16 under the Clean Air Act to reach attainment of such standards.]

17 “[(d) In an airshed requiring more than a 50 percent reduction in woodheating emissions as spec-
18 ified in the State Implementation Plan control strategy for PM10 emissions, program participants shall
19 have a backup heat source if a certified woodstove is selected.]

20 “[(e) Any replacement woodstove selected under the program must be installed in conformance with
21 building code requirements and the manufacturer’s specifications including but not limited to chimney
22 specifications.]

23 “[(f) To be eligible, program participants shall participate in any home energy audit program pro-
24 vided at no charge to the homeowner and shall obtain all information available regarding subsidies for
25 cost-effective weatherization. The local government or regional air quality authority shall make the in-
26 formation required in this subsection readily available to program participants.]

27 “(6) **The Department of Environmental Quality may enter into an agreement with a local
28 government or a regional authority in order to implement a program established under sub-
29 section (5) of this section.**

30 “**SECTION 7.** ORS 468A.495 is amended to read:

31 “468A.495. [On and after September 29, 1991,] The state building code under ORS 455.010 shall
32 prohibit installations of used [woodstoves that were not certified for sale as new on or after July 1,
33 1986, under ORS 468A.480 (1).] **solid fuel burning devices that:**

34 “(1) **Were not certified to meet emission performance standards adopted by the Envi-
35 ronmental Quality Commission pursuant to ORS chapter 468A for sale as new on or after
36 July 1, 1986, and before the effective date of this 2007 Act and do not have a Department of
37 Environmental Quality certification label attached; or**

38 “(2) **Were not certified by the department pursuant to ORS 468A.465.**

39 “**SECTION 8.** ORS 468A.500 is amended to read:

40 “468A.500. [On and after September 29, 1991, no] A person [shall] **may not** advertise for sale,
41 offer to sell or sell, within this state, a used [woodstove that was not certified under ORS 468A.480
42 (1) for sale as new on or after July 1, 1986.] **solid fuel burning device that:**

43 “(1) **Was not certified to meet emission performance standards adopted by the Environ-
44 mental Quality Commission pursuant to ORS chapter 468A for sale as new on or after July
45 1, 1986, and before the effective date of this 2007 Act and does not have a Department of**

1 **Environmental Quality certification label attached; or**

2 **“(2) Was not certified by the department pursuant to ORS 468A.465.**

3 **“SECTION 9.** ORS 468A.505 is amended to read:

4 *“468A.505. [After December 31, 1994, all woodstoves, other than cookstoves, not certified for sale*
5 *as new on or after July 1, 1986, under ORS 468A.480 (1) shall be removed and destroyed upon sale*
6 *of a home in any PM10 nonattainment area in the state that does not attain compliance with the PM10*
7 *standard established by the Environmental Quality Commission under ORS 468A.025 by December 31,*
8 *1994.]*

9 **“(1) In connection with the sale of a residential structure, all solid fuel burning devices,**
10 **other than cookstoves, in the residential structure or on the real property sold with the**
11 **residential structure, must be removed and destroyed if the solid fuel burning devices:**

12 **“(a) Were not certified to meet emission performance standards adopted by the Envi-**
13 **ronmental Quality Commission pursuant to ORS chapter 468A for sale as new on or after**
14 **July 1, 1986, and before the effective date of this 2007 Act and do not have a Department of**
15 **Environmental Quality certification label attached; or**

16 **“(b) Were not certified by the department pursuant to ORS 468A.465.**

17 **“(2) This section does not apply to central, wood-fired furnaces that are indoors, ducted**
18 **and thermostatically controlled and that have a dedicated cold air inlet and a dedicated hot**
19 **air outlet that connect to the heating ductwork for the entire residential structure. To claim**
20 **this exemption, the person responsible for removal and destruction of a solid fuel burning**
21 **device under this section shall provide to the department written verification that the ex-**
22 **emption applies, pursuant to rules adopted by the commission.**

23 **“(3) The removal and destruction of solid fuel burning devices under this section is the**
24 **responsibility of the seller of the residential structure, unless the seller and buyer agree in**
25 **writing that it is the buyer’s responsibility. If the seller retains responsibility, the seller shall**
26 **remove and destroy the devices prior to the closing date of the sale of the residential**
27 **structure. If the buyer accepts responsibility, the buyer shall remove and destroy the devices**
28 **within 30 days of the closing date of the sale of the residential structure.**

29 **“(4) The person responsible for removal and destruction of solid fuel burning devices**
30 **under this section shall provide to the department written confirmation of the removal and**
31 **destruction, pursuant to rules adopted by the commission.**

32 **“(5) The failure of a seller or buyer of a residential structure to comply with this section**
33 **does not invalidate an instrument of conveyance executed in the sale.**

34 **“SECTION 10.** ORS 468A.515 is amended to read:

35 *“468A.515. (1) If a local government or regional authority has not adopted or is not ade-*
36 *quately implementing a curtailment program in any area of the state where such a program*
37 *is required under the Clean Air Act, the Environmental Quality Commission may adopt by*
38 *rule and the Department of Environmental Quality may operate and enforce a program to*
39 *curtail residential solid fuel heating during periods of air stagnation as described in sub-*
40 *section (2) of this section. The department shall suspend operation and enforcement of a*
41 *program adopted under this subsection upon a determination by the department that the*
42 *local government or regional authority has adopted and is adequately implementing the re-*
43 *quired curtailment program.*

44 *“[(1)] (2) Any programs adopted by the Environmental Quality Commission pursuant to sub-*
45 *section (1) of this section to curtail residential [wood] solid fuel heating during periods of air*

1 stagnation shall provide for two stages of curtailment based on the severity of projected air quality
2 conditions. Except as provided in subsection [(2)] (3) of this section, the programs shall apply to all
3 [woodburning fireplaces, woodstoves and appliances] **heating by means of solid fuel, including but**
4 **not limited to solid fuel burning devices, fireplaces and appliances.** The programs shall provide
5 that [woodstoves that were certified for sale as new on or after July 1, 1986, under ORS 468A.480 (1)
6 shall be curtailed only at the second stage to insure attainment of air quality standards.] **use of a solid**
7 **fuel burning device, fireplace or appliance be curtailed only at the stage established for more**
8 **severe air quality conditions if the solid fuel burning device, fireplace or appliance:**

9 “(a) **Was certified to meet emission performance standards adopted by the commission**
10 **pursuant to ORS chapter 468A for sale as new on or after July 1, 1986, and before the effec-**
11 **tive date of this 2007 Act and has a Department of Environmental Quality certification label**
12 **attached; or**

13 “(b) **Was certified by the department pursuant to ORS 468A.465.**

14 “[(2)] (3) Programs adopted by the **Environmental Quality** Commission to curtail residential
15 [wood] **solid fuel heating during periods of air stagnation [shall] do not apply to:**

16 “(a) A person who is classified at less than or equal to 125 percent of poverty level pursuant
17 to **guidelines established by the commission taking into account** federal poverty [income]
18 guidelines [adopted under the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35)];

19 “(b) A person whose residence is equipped [only with wood heating until such time as funding
20 becomes available for replacement or woodstoves that were not certified under ORS 468A.480 for sale
21 as new on or after July 1, 1986, and for the period of time between application for such funds and
22 completion of the replacement] **solely with a solid fuel burning device that meets any additional**
23 **requirements as described in rules adopted by the commission; and**

24 “(c) [Wood burning] Pellet stoves, **unless the stove is located in an area designated as a**
25 **nonattainment area for particulates by rule of the commission adopted under ORS 468A.025.**

26 “[3] *If a local government or regional authority has not adopted or is not adequately implementing*
27 *the required curtailment program, the Environmental Quality Commission may adopt by rule and the*
28 *Department of Environmental Quality may operate and enforce a program to curtail residential wood*
29 *heating during periods of air stagnation as specified in subsection (1) of this section in any area of the*
30 *state where such a program is required under the Clean Air Act. The department shall suspend oper-*
31 *ation and enforcement of a program adopted under this subsection upon a determination by the de-*
32 *partment that the local government or regional air quality authority has adopted and is adequately*
33 *implementing the required curtailment program.]*

34 “[4] *Except as provided in this section, after September 29, 1991, the commission shall not adopt*
35 *or make more stringent any additional regulatory programs affecting residential wood heating unless*
36 *the air quality standard for PM10 established by the commission under ORS 468A.025 has not been*
37 *attained in the state by the latest date, considering extensions, allowed under the Clean Air Act.*
38 *Nothing in this section shall be construed to affect regulatory programs in effect on September 29,*
39 *1991.]*

40 “**SECTION 11.** ORS 468A.005 is amended to read:

41 “468A.005. As used in ORS chapters 468, 468A and 468B, unless the context requires otherwise:

42 “(1) ‘Air-cleaning device’ means any method, process or equipment which removes, reduces or
43 renders less noxious air contaminants prior to their discharge in the atmosphere.

44 “(2) ‘Air contaminant’ means a dust, fume, gas, mist, odor, smoke, vapor, pollen, soot, carbon,
45 acid or particulate matter or any combination thereof.

1 “(3) ‘Air contamination’ means the presence in the outdoor atmosphere of one or more air con-
2 taminants which contribute to a condition of air pollution.

3 “(4) ‘Air contamination source’ means any source at, from, or by reason of which there is emit-
4 ted into the atmosphere any air contaminant, regardless of who the person may be who owns or
5 operates the building, premises or other property in, at or on which such source is located, or the
6 facility, equipment or other property by which the emission is caused or from which the emission
7 comes.

8 “(5) ‘Air pollution’ means the presence in the outdoor atmosphere of one or more air contam-
9 inants, or any combination thereof, in sufficient quantities and of such characteristics and of a du-
10 ration as are or are likely to be injurious to public welfare, to the health of human, plant or animal
11 life or to property or to interfere unreasonably with enjoyment of life and property throughout such
12 area of the state as shall be affected thereby.

13 “(6) ‘Area of the state’ means any city or county or portion thereof or other geographical area
14 of the state as may be designated by the Environmental Quality Commission.

15 “[7] ‘Woodstove’ means a wood fired appliance with a closed fire chamber which maintains an
16 air-to-fuel ratio of less than 30 during the burning of 90 percent or more of the fuel mass consumed in
17 the low firing cycle. The low firing cycle means less than or equal to 25 percent of the maximum burn
18 rate achieved with doors closed or the minimum burn achievable.]

19 “**SECTION 12.** ORS 468A.020 is amended to read:

20 “468A.020. (1) Except as provided in this section and in ORS 476.380 and 478.960, the air pol-
21 lution laws contained in ORS chapters 468, 468A and 468B do not apply to:

22 “(a) Agricultural operations and the growing or harvesting of crops and the raising of fowls or
23 animals, except field burning which shall be subject to regulation pursuant to ORS 468.140, 468.150,
24 468A.555 to 468A.620 and 468A.992 and this section;

25 “(b) Use of equipment in agricultural operations in the growth of crops or the raising of fowls
26 or animals, except field burning which shall be subject to regulation pursuant to ORS 468.140,
27 468.150, 468A.555 to 468A.620 and 468A.992 and this section;

28 “(c) Barbecue equipment used in connection with any residence;

29 “(d) Agricultural land clearing operations or land grading;

30 “(e) Heating equipment in or used in connection with residences used exclusively as dwellings
31 for not more than four families, except [*woodstoves*] **solid fuel burning devices**, which shall be
32 subject to regulation under this section[,] **and** ORS **468.140 and** 468A.460 to [*468A.480, 468A.490*
33 *and*] 468A.515;

34 “(f) Fires set or permitted by any public agency when such fire is set or permitted in the per-
35 formance of [*its*] official duty for the purpose of weed abatement, prevention or elimination of a fire
36 hazard, or instruction of employees in the methods of fire fighting, which in the opinion of the
37 agency is necessary;

38 “(g) Fires set pursuant to permit for the purpose of instruction of employees of private industrial
39 concerns in methods of fire fighting, or for civil defense instruction;

40 “(h) The propagation and raising of nursery stock, except boilers used in connection with the
41 propagation and raising of nursery stock;

42 “(i) The propane flaming of mint stubble; or

43 “(j) Stack or pile burning of residue from Christmas trees, as defined in ORS 571.505, during the
44 period beginning October 1 and ending May 31 of the following year.

45 “(2) As used in subsection (1) of this section, ‘field burning’ does not include propane flaming

1 of mint stubble.

2 “**SECTION 13.** ORS 468.135 is amended to read:

3 “468.135. (1) Any civil penalty under ORS 468.140 shall be imposed in the manner provided in
4 ORS 183.745.

5 “(2) **Except as provided in subsection (3) of this section,** all penalties recovered under ORS
6 468.140 shall be paid into the State Treasury and credited to the General Fund, or in the event the
7 penalty is recovered by a regional air quality control authority, it shall be paid into the county
8 treasury of the county in which the violation occurred.

9 “(3)(a) **Except as provided in paragraph (b) of this subsection, all penalties recovered by**
10 **the Department of Environmental Quality for violations of ORS 468A.085 or 468A.700 to**
11 **468A.760 or any rule or standard adopted by the Environmental Quality Commission pursuant**
12 **to those statutes shall be paid into the Residential Solid Fuel Heating Air Quality Improve-**
13 **ment Fund established under ORS 468A.490.**

14 “(b) **The maximum amount of penalties that may be paid into the Residential Solid Fuel**
15 **Heating Air Quality Improvement Fund in a biennium is \$400,000. When the amount of pen-**
16 **alties paid into the fund for a biennium reaches \$400,000, any additional penalties recovered**
17 **by the department in that biennium shall be paid into the State Treasury and credited to the**
18 **General Fund.**

19 “**SECTION 14.** ORS 468A.300 is amended to read:

20 “468A.300. As used in ORS 468.065, 468A.040, 468A.300 to 468A.330, 468A.415, 468A.420 and
21 [468A.485] **468A.460** to 468A.515:

22 “(1) ‘Administrator’ means the administrator of the United States Environmental Protection
23 Agency.

24 “(2) ‘Clean Air Act’ means P.L. 88-206 as amended.

25 “(3) ‘Federal operating permit program’ means the program established by the Environmental
26 Quality Commission and the Department of Environmental Quality pursuant to ORS 468A.310.

27 “(4) ‘Major source’ has the meaning given in section 501(2) of the Clean Air Act.

28 “(5) ‘Title V’ means Title V of the Clean Air Act.

29 “**SECTION 15.** ORS 468A.305 is amended to read:

30 “468A.305. The Legislative Assembly declares the purpose of ORS 184.730, 184.733, 468.065,
31 468A.020, 468A.040, 468A.045, 468A.155, 468A.300 to 468A.330, 468A.415[,] **and** 468A.420 [*and*
32 *468A.475 to 468A.520*] is to:

33 “(1) [*Insure*] **Ensure** that the state meets its minimum obligations under the Clean Air Act
34 Amendments of 1990.

35 “(2) Avoid direct regulation of industrial sources of air pollution through a federal government
36 administered permit program.

37 “(3) Prevent imposition of Clean Air Act sanctions [*which*] **that** would impound federal highway
38 funds appropriated for the state and increase emission offset requirements for new and expanding
39 major industrial sources of air pollution.

40 “(4) Provide adequate resources to fully cover the costs of the Department of Environmental
41 Quality to develop and administer an approvable federal operating permit program in accordance
42 with the Clean Air Act, including costs of permitting, compliance, rule development, emission in-
43 ventorying, monitoring and modeling and related activities.

44 “**SECTION 16.** **Section 17 of this 2007 Act is added to and made a part of ORS 105.462 to**
45 **105.492.**

1 “**SECTION 17.** ORS 105.464 preempts any law, rule, regulation, code or ordinance of the
2 political subdivisions of this state including, but not limited to, the Lane Regional Air Pro-
3 tection Agency regarding the disclosure of solid fuel burning devices, as defined in ORS
4 468A.485, in connection with a written offer to purchase real property in this state for which
5 a seller’s property disclosure statement is required under ORS 105.465 and 105.470.

6 “**SECTION 18.** ORS 105.464 is amended to read:

7 “105.464. A seller’s property disclosure statement must be in substantially the following form:

8 “

9
10 If required under ORS 105.465, a seller shall deliver in substantially the following form the
11 seller’s property disclosure statement to each buyer who makes a written offer to purchase
12 real property in this state:

13 _____
14
15 **INSTRUCTIONS TO THE SELLER**

16
17 Please complete the following form. Do not leave any spaces blank. Please refer to the line
18 number(s) of the question(s) when you provide your explanation(s). If you are not claiming an ex-
19 clusion or refusing to provide the form under ORS 105.475 (4), you should date and sign each page
20 of this disclosure statement and each attachment.

21
22 Each seller of residential property described in ORS 105.465 must deliver this form to each buyer
23 who makes a written offer to purchase. Under ORS 105.475 (4), refusal to provide this form gives the
24 buyer the right to revoke their offer at any time prior to closing the transaction. Use only the
25 section(s) of the form that apply to the transaction for which the form is used. If you are claiming
26 an exclusion under ORS 105.470, fill out only Section 1.

27
28 An exclusion may be claimed only if the seller qualifies for the exclusion under the law. If not ex-
29 cluded, the seller must disclose the condition of the property or the buyer may revoke their offer
30 to purchase anytime prior to closing the transaction. Questions regarding the legal consequences
31 of the seller’s choice should be directed to a qualified attorney.

32 _____
33
34 **(DO NOT FILL OUT THIS SECTION UNLESS YOU ARE CLAIMING AN EXCLUSION**
35 **UNDER ORS 105.470)**

36
37 **Section 1. EXCLUSION FROM ORS 105.462 TO 105.490:**

38
39 You may claim an exclusion under ORS 105.470 only if you qualify under the statute. If you are not
40 claiming an exclusion, you must fill out Section 2 of this form completely.

41
42 Initial only the exclusion you wish to claim.

43
44 _____ This is the first sale of a dwelling never occupied. The dwelling is constructed or installed
45 under building or installation permit(s) #_____, issued by _____.

1 _____ This sale is by a financial institution that acquired the property as custodian, agent or
2 trustee, or by foreclosure or deed in lieu of foreclosure.

3
4 _____ The seller is a court appointed receiver, personal representative, trustee, conservator or
5 guardian.

6
7 _____ This sale or transfer is by a governmental agency.

8
9 _____
10 Signature(s) of Seller claiming exclusion

11 Date _____

12
13 _____
14 Buyer(s) to acknowledge Seller's claim

15 Date _____
16 _____

17
18
19 (IF YOU DID NOT CLAIM AN EXCLUSION IN SECTION 1, YOU MUST FILL OUT THIS SEC-
20 TION.)

21
22 Section 2. SELLER'S PROPERTY DISCLOSURE STATEMENT

23
24 (NOT A WARRANTY)

25 (ORS 105.464)

26
27 NOTICE TO THE BUYER: THE FOLLOWING REPRESENTATIONS ARE MADE BY THE
28 SELLER(S) CONCERNING THE CONDITION OF THE PROPERTY LOCATED
29 AT _____ ("THE PROPERTY").

30
31 DISCLOSURES CONTAINED IN THIS FORM ARE PROVIDED BY THE SELLER ON THE BASIS
32 OF SELLER'S ACTUAL KNOWLEDGE OF THE PROPERTY AT THE TIME OF DISCLOSURE.
33 BUYER HAS FIVE DAYS FROM THE SELLER'S DELIVERY OF THIS SELLER'S DISCLOSURE
34 STATEMENT TO REVOKE BUYER'S OFFER BY DELIVERING BUYER'S SEPARATE SIGNED
35 WRITTEN STATEMENT OF REVOCATION TO THE SELLER DISAPPROVING THE SELLER'S
36 DISCLOSURE STATEMENT, UNLESS BUYER WAIVES THIS RIGHT AT OR PRIOR TO ENTER-
37 ING INTO A SALE AGREEMENT.

38
39 FOR A MORE COMPREHENSIVE EXAMINATION OF THE SPECIFIC CONDITION OF THIS
40 PROPERTY, BUYER IS ADVISED TO OBTAIN AND PAY FOR THE SERVICES OF A QUALIFIED
41 SPECIALIST TO INSPECT THE PROPERTY ON BUYER'S BEHALF INCLUDING, FOR EXAM-
42 PLE, ONE OR MORE OF THE FOLLOWING: ARCHITECTS, ENGINEERS, PLUMBERS,
43 ELECTRICIANS, ROOFERS, ENVIRONMENTAL INSPECTORS, BUILDING INSPECTORS, CER-
44 TIFIED HOME INSPECTORS, OR PEST AND DRY ROT INSPECTORS.

1 Seller _____ is/ _____ is not occupying the property.

2

3 I. SELLER'S REPRESENTATIONS:

4

5 The following are representations made by the seller and are not the representations of any finan-
6 cial institution that may have made or may make a loan pertaining to the property, or that may
7 have or take a security interest in the property, or any real estate licensee engaged by the seller
8 or the buyer.

9

10 *If you mark yes on items with *, attach a copy or explain on an attached sheet.

11

12 1. TITLE

13 A. Do you have legal authority to sell the property? []Yes []No []Unknown

14 *B. Is title to the property subject to any of the

15 following: []Yes []No []Unknown

16 (1) First right of refusal

17 (2) Option

18 (3) Lease or rental agreement

19 (4) Other listing

20 (5) Life estate?

21 *C. Are there any encroachments, boundary

22 agreements, boundary disputes or recent

23 boundary changes? []Yes []No []Unknown

24 *D. Are there any rights of way, easements,

25 licenses, access limitations or claims that

26 may affect your interest in the property? []Yes []No []Unknown

27 *E. Are there any agreements for joint

28 maintenance of an easement or right of way? []Yes []No []Unknown

29 *F. Are there any governmental studies, designations,

30 zoning overlays, surveys or notices that would

31 affect the property? []Yes []No []Unknown

32 *G. Are there any pending or existing governmental

33 assessments against the property?

[]Yes []No []Unknown

34 *H. Are there any zoning violations or

35 nonconforming uses?

[]Yes []No []Unknown

36 *I. Is there a boundary survey for the property? []Yes []No []Unknown

37 *J. Are there any covenants, conditions,

38 restrictions or private assessments that

39 affect the property? []Yes []No []Unknown

40 *K. Is the property subject to any special tax

41 assessment or tax treatment that may result

42 in levy of additional taxes if the property

43 is sold? []Yes []No []Unknown

44

45 2. WATER

1 A. Household water

2 (1) The source of the water is (check ALL that apply):

3 []Public []Community []Private

4 []Other _____

5 (2) Water source information:

6 *a. Does the water source require a water permit? []Yes []No []Unknown

7 If yes, do you have a permit? []Yes []No

8 b. Is the water source located on the property? []Yes []No []Unknown

9 *If not, are there any written agreements for

10 a shared water source? []Yes []No []Unknown []NA

11 *c. Is there an easement (recorded or unrecorded)

12 for your access to or maintenance of the water

13 source? []Yes []No []Unknown

14 d. If the source of water is from a well or spring,

15 have you had any of the following in the past

16 12 months? []Flow test []Bacteria test

17 []Chemical contents test []Yes []No []Unknown []NA

18 *e. Are there any water source plumbing problems

19 or needed repairs? []Yes []No []Unknown

20 (3) Are there any water treatment systems for

21 the property? []Yes []No []Unknown

22 []Leased []Owned

23 B. Irrigation

24 (1) Are there any [] water rights or [] other

25 irrigation rights for the property? []Yes []No []Unknown

26 *(2) If any exist, has the irrigation water been

27 used during the last five-year period? []Yes []No []Unknown []NA

28 *(3) Is there a water rights certificate or other

29 written evidence available? []Yes []No []Unknown []NA

30 C. Outdoor sprinkler system

31 (1) Is there an outdoor sprinkler system for the

32 property? []Yes []No []Unknown

33 (2) Has a back flow valve been installed? []Yes []No []Unknown []NA

34 (3) Is the outdoor sprinkler system operable? []Yes []No []Unknown []NA

35

36 3. SEWAGE SYSTEM

37 A. Is the property connected to a public or

38 community sewage system? []Yes []No []Unknown

39 B. Are there any new public or community sewage

40 systems proposed for the property? []Yes []No []Unknown

41 C. Is the property connected to an on-site septic

42 system? []Yes []No []Unknown

43 If yes, was it installed by permit? []Yes []No []Unknown []NA

44 *Has the system been repaired or altered? []Yes []No []Unknown

45 Has the condition of the system been

1 evaluated and a report issued? []Yes []No []Unknown
2 Has it ever been pumped? []Yes []No []Unknown []NA
3 If yes, when? _____

4 *D. Are there any sewage system problems or
5 needed repairs? []Yes []No []Unknown
6 E. Does your sewage system require on-site
7 pumping to another level? []Yes []No []Unknown
8

9 4. DWELLING INSULATION

10 A. Is there insulation in the:

11 (1) Ceiling? []Yes []No []Unknown
12 (2) Exterior walls? []Yes []No []Unknown
13 (3) Floors? []Yes []No []Unknown

14 B. Are there any defective insulated doors or
15 windows? []Yes []No []Unknown
16

17 5. DWELLING STRUCTURE

18 *A. Has the roof leaked? []Yes []No []Unknown
19 If yes, has it been repaired? []Yes []No []Unknown []NA
20 B. Are there any additions, conversions or
21 remodeling? []Yes []No []Unknown
22 If yes, was a building permit required? []Yes []No []Unknown []NA
23 If yes, was a building permit obtained? []Yes []No []Unknown []NA
24 If yes, was final inspection obtained? []Yes []No []Unknown []NA
25 C. Are there smoke alarms or detectors? []Yes []No []Unknown
26 D. Is there a woodstove **or fireplace**
27 **insert** included in the sale? []Yes []No []Unknown
28 **If yes, what is the make?**
29 _____

30 ***If yes, was it installed with a permit?** []Yes []No []Unknown
31 ***If yes, is a certification label issued**
32 **by the United States Environmental**
33 **Protection Agency (EPA) or the**
34 **Department of Environmental Quality**
35 **(DEQ) affixed to it?** []Yes []No []Unknown
36 *E. Has pest and dry rot, structural or
37 "whole house" inspection been done
38 within the last three years? []Yes []No []Unknown
39 *F. Are there any moisture problems, areas of
40 water penetration, mildew odors or other
41 moisture conditions (especially in the
42 basement)? []Yes []No []Unknown
43 ***If yes, explain on attached sheet the frequency and**
44 **extent of problem and any insurance claims,**
45 **repairs or remediation done.**

- 1 G. Is there a sump pump on the property? []Yes []No []Unknown
2 H. Are there any materials used in the
3 construction of the structure that are or
4 have been the subject of a recall, class
5 action suit, settlement or litigation? []Yes []No []Unknown
6 If yes, what are the materials? _____
7 (1) Are there problems with the materials? []Yes []No []Unknown []NA
8 (2) Are the materials covered by a warranty? []Yes []No []Unknown []NA
9 (3) Have the materials been inspected? []Yes []No []Unknown []NA
10 (4) Have there ever been claims filed for these
11 materials by you or by previous owners? []Yes []No []Unknown []NA
12 If yes, when? _____
13 (5) Was money received? []Yes []No []Unknown []NA
14 (6) Were any of the materials repaired or
15 replaced? []Yes []No []Unknown []NA
16
17 6. DWELLING SYSTEMS AND FIXTURES
18 If the following systems or fixtures are included
19 in the purchase price, are they in good working
20 order on the date this form is signed?
21 A. Electrical system, including wiring, switches,
22 outlets and service []Yes []No []Unknown
23 B. Plumbing system, including pipes, faucets,
24 fixtures and toilets []Yes []No []Unknown
25 C. Water heater tank []Yes []No []Unknown
26 D. Garbage disposal []Yes []No []Unknown []NA
27 E. Built-in range and oven []Yes []No []Unknown []NA
28 F. Built-in dishwasher []Yes []No []Unknown []NA
29 G. Sump pump []Yes []No []Unknown []NA
30 H. Heating and cooling systems []Yes []No []Unknown []NA
31 I. Security system []Owned []Leased []Yes []No []Unknown []NA
32 J. Are there any materials or products used in
33 the systems and fixtures that are or have
34 been the subject of a recall, class action
35 settlement or other litigations? []Yes []No []Unknown
36 If yes, what product? _____
37 (1) Are there problems with the product? []Yes []No []Unknown
38 (2) Is the product covered by a warranty? []Yes []No []Unknown
39 (3) Has the product been inspected? []Yes []No []Unknown
40 (4) Have claims been filed for this product
41 by you or by previous owners? []Yes []No []Unknown
42 If yes, when? _____
43 (5) Was money received? []Yes []No []Unknown
44 (6) Were any of the materials or products repaired
45 or replaced? []Yes []No []Unknown

- 1 7. COMMON INTEREST
- 2 A. Is there a Home Owners' Association
- 3 or other governing entity?]Yes]No]Unknown
- 4 Name of Association or Other Governing
- 5 Entity _____
- 6 Contact Person _____
- 7 Address _____
- 8 Phone Number _____
- 9 B. Regular periodic assessments: \$_____
- 10 per]Month]Year]Other _____
- 11 *C. Are there any pending or proposed special
- 12 assessments?]Yes]No]Unknown
- 13 D. Are there shared "common areas" or joint
- 14 maintenance agreements for facilities like
- 15 walls, fences, pools, tennis courts, walkways
- 16 or other areas co-owned in undivided interest
- 17 with others?]Yes]No]Unknown
- 18 E. Is the Home Owners' Association or other
- 19 governing entity a party to pending litigation
- 20 or subject to an unsatisfied judgment?]Yes]No]Unknown]NA
- 21 F. Is the property in violation of recorded
- 22 covenants, conditions and restrictions or in
- 23 violation of other bylaws or governing rules,
- 24 whether recorded or not?]Yes]No]Unknown]NA
- 25
- 26 8. GENERAL
- 27 A. Are there problems with settling, soil,
- 28 standing water or drainage on the property
- 29 or in the immediate area?]Yes]No]Unknown
- 30 B. Does the property contain fill?]Yes]No]Unknown
- 31 C. Is there any material damage to the property or
- 32 any of the structure(s) from fire, wind, floods,
- 33 beach movements, earthquake, expansive soils
- 34 or landslides?]Yes]No]Unknown
- 35 D. Is the property in a designated floodplain?]Yes]No]Unknown
- 36 E. Is the property in a designated slide or other
- 37 geologic hazard zone?]Yes]No]Unknown
- 38 *F. Has any portion of the property been tested
- 39 or treated for asbestos, formaldehyde, radon
- 40 gas, lead-based paint, mold, fuel or chemical
- 41 storage tanks or contaminated soil or water?]Yes]No]Unknown
- 42 G. Are there any tanks or underground storage
- 43 tanks (e.g., septic, chemical, fuel, etc.)
- 44 on the property?]Yes]No]Unknown
- 45 H. Has the property ever been used as an illegal

1 drug manufacturing or distribution site? []Yes []No []Unknown
2 *If yes, was a Certificate of Fitness issued? []Yes []No []Unknown
3

4 9. FULL DISCLOSURE BY SELLERS

5 *A. Are there any other material defects
6 affecting this property or its value
7 that a prospective buyer should
8 know about? []Yes []No

9 *If yes, describe the defect on attached sheet
10 and explain the frequency and extent of the
11 problem and any insurance claims, repairs or
12 remediation.

13 B. Verification:

14 The foregoing answers and attached explanations (if any) are complete and correct to
15 the best of my/our knowledge and I/we have received a copy of this disclosure statement.
16 I/we authorize my/our agents to deliver a copy of this disclosure statement to all
17 prospective buyers of the property or their agents.

18

19 Seller(s) signature:

20

21 SELLER _____ DATE _____

22

23 SELLER _____ DATE _____

24 _____

25

26

27 II. BUYER'S ACKNOWLEDGMENT

28

29 A. As buyer(s), I/we acknowledge the duty to pay diligent attention to any material defects that are
30 known to me/us or can be known by me/us by utilizing diligent attention and observation.

31

32 B. Each buyer acknowledges and understands that the disclosures set forth in this statement and in
33 any amendments to this statement are made only by the seller and are not the representations of
34 any financial institution that may have made or may make a loan pertaining to the property, or that
35 may have or take a security interest in the property, or of any real estate licensee engaged by the
36 seller or buyer. A financial institution or real estate licensee is not bound by and has no liability
37 with respect to any representation, misrepresentation, omission, error or inaccuracy contained in
38 another party's disclosure statement required by this section or any amendment to the disclosure
39 statement.

40

41 C. Buyer (which term includes all persons signing the "buyer's acknowledgment" portion of this
42 disclosure statement below) hereby acknowledges receipt of a copy of this disclosure statement (in-
43 cluding attachments, if any) bearing seller's signature(s).

44

45 DISCLOSURES, IF ANY, CONTAINED IN THIS FORM ARE PROVIDED BY THE SELLER ON

1 THE BASIS OF SELLER'S ACTUAL KNOWLEDGE OF THE PROPERTY AT THE TIME OF DIS-
2 CLOSURE. IF THE SELLER HAS FILLED OUT SECTION 2 OF THIS FORM, YOU, THE BUYER,
3 HAVE FIVE DAYS FROM THE SELLER'S DELIVERY OF THIS DISCLOSURE STATEMENT TO
4 REVOKE YOUR OFFER BY DELIVERING YOUR SEPARATE SIGNED WRITTEN STATEMENT
5 OF REVOCATION TO THE SELLER DISAPPROVING THE SELLER'S DISCLOSURE UNLESS
6 YOU WAIVE THIS RIGHT AT OR PRIOR TO ENTERING INTO A SALE AGREEMENT.

7
8 BUYER HEREBY ACKNOWLEDGES RECEIPT OF A COPY OF THIS SELLER'S PROPERTY
9 DISCLOSURE STATEMENT.

10
11 BUYER _____ DATE _____

12
13 BUYER _____ DATE _____

14
15 Agent receiving disclosure statement on buyer's behalf to sign and date:

16
17 _____ Real Estate Licensee

18
19 _____ Real Estate Firm

20
21 Date received by agent _____

22 " _____

23
24 **"SECTION 19. ORS 468A.470, 468A.475, 468A.480, 468A.510 and 468A.520 are repealed.**

25 **"SECTION 20. (1) Except as provided in subsection (2) of this section, the amendments**
26 **to ORS 468A.505 by section 9 of this 2007 Act become operative on August 1, 2008.**

27 **"(2) The amendments to ORS 468A.505 by section 9 of this 2007 Act become operative on**
28 **the effective date of this 2007 Act for the purpose of adopting rules under ORS 468A.505.**

29 **"SECTION 21. Until the Environmental Quality Commission first adopts rules pursuant**
30 **to ORS 468A.465 as amended by section 2 of this 2007 Act, a person may sell or offer to sell**
31 **a new solid fuel burning device in Oregon that has been certified to meet emission perform-**
32 **ance standards adopted by the commission pursuant to ORS chapter 468A on or after July**
33 **1, 1986, and before the effective date of this 2007 Act."**