

Enrolled Senate Bill 643

Sponsored by Senator AVAKIAN, Representatives JENSON, WITT, ROBLAN; Senators CARTER, COURTNEY, JOHNSON, KRUSE, METSGER, SCHRADER, VERGER, WHITSETT, Representatives BOONE, COWAN, HUNT, KRIEGER

CHAPTER

AN ACT

Relating to shipping; creating new provisions; and amending ORS 783.625 and section 1, chapter 150, Oregon Laws 2007 (Enrolled Senate Bill 432).

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

SECTION 1. (1)(a) There is created the Shipping Transport of Aquatic Invasive Species Task Force.

(b) The President of the Senate and the Speaker of the House of Representatives shall appoint two members from among members of the Legislative Assembly to serve in an advisory capacity to the task force.

(c) The Director of the Department of Environmental Quality may appoint members to the task force who represent the interests of this state and federal, State of Washington, maritime, environmental and academic interests.

(2) The purpose of the task force is to study and make recommendations:

(a) For combatting the introduction of aquatic nonindigenous species associated with shipping-related transport into the waters of this state; and

(b) On changes to the ballast water program established in ORS 783.625 to 783.640, including but not limited to the following considerations:

(A) Shipping industry compliance with ORS 783.625 to 783.640;

(B) Practicable and cost-effective ballast water treatment technologies;

(C) Appropriate standards for discharge of treated ballast water into waters of this state;

(D) The compatibility of ORS 783.625 to 783.640 with new laws enacted by the United States Congress, regulations promulgated by the United States Coast Guard and ballast water management programs established by the States of Alaska, California and Washington and the Province of British Columbia;

(E) Practicable and cost-effective techniques to combat the introduction of aquatic nonindigenous species associated with shipping-related transport into the waters of this state; and

(F) Appropriate regulations and standards to combat the introduction of aquatic nonindigenous species associated with shipping-related transport into the waters of this state.

(3) Portland State University may provide staff support or coordination assistance to the task force, subject to available funding from gifts, grants or donations.

(4) All agencies of state government, as defined in ORS 174.111, are directed to assist the task force in the performance of its duties and, to the extent permitted by laws relating to confidentiality, to furnish such information and advice as the members of the task force consider necessary to perform their duties.

(5) A majority of the members of the task force constitutes a quorum for the transaction of business.

(6) Official action by the task force requires the approval of a majority of the members of the task force.

(7) The task force shall elect one of its members to serve as chairperson.

(8) The task force shall submit a report, including recommendations for legislation, to an interim committee related to natural resources no later than October 1, 2008.

(9) Notwithstanding ORS 171.072, members of the task force who are members of the Legislative Assembly are not entitled to mileage expenses or a per diem and serve as volunteers on the task force. Other members of the task force are not entitled to compensation or reimbursement for expenses and serve as volunteers on the task force.

(10) As used in this section:

(a) "Aquatic nonindigenous species" means any species or other viable biological material that enters an ecosystem beyond its historic range.

(b) "Waters of this state" has the meaning given in ORS 783.625.

SECTION 2. ORS 783.625 is amended to read:

783.625. As used in ORS 783.625 to 783.640, unless the context requires otherwise:

(1) "Ballast water" means any water used to manipulate the trim and stability of a vessel.

(2) "Cargo vessel" means a [*self-propelled*] ship in commerce **that is equipped with ballast tanks**, other than a tank vessel or a vessel used solely for commercial fish harvesting, of 300 gross tons or more.

(3) "Coastal exchange" means exchanging the ballast water taken onboard at a North American coastal port at a distance of at least 50 nautical miles from land and at a depth of at least 200 meters.

(4) "Department" means the Department of Environmental Quality.

(5) "Oil" means oil, gasoline, crude oil, fuel oil, diesel oil, lubricating oil, oil sludge, oil refuse and any other petroleum related product.

(6) "Open sea exchange" means a replacement of ballast water that occurs in an area no less than 200 nautical miles from any shore.

(7) "Passenger vessel" means a ship of 300 gross tons or more carrying passengers for compensation.

(8) "Sediment" means any matter that settles out of ballast water.

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

(10) "Tank vessel" means a ship that is constructed or adapted to carry oil in bulk as cargo or cargo residue other than:

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

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

(c) An oil spill response barge or vessel.

(11) "Vessel" means a tank vessel, cargo vessel or passenger vessel.

(12) "Voyage" means any transit by a vessel destined for any Oregon port.

(13) "Waters of this state" means natural waterways including all tidal and nontidal bays, intermittent streams, constantly flowing streams, lakes, wetlands and other bodies of water in this state, navigable and nonnavigable, including that portion of the Pacific Ocean that is in the boundaries of Oregon.

SECTION 3. Section 1, chapter 150, Oregon Laws 2007 (Enrolled Senate Bill 432), is amended to read:

Sec. 1. (1) As used in this section:

(a) "Dry dock" means a graving dock or a floating dry dock.

(b) "Floating dry dock" means a vessel **or structure** that can be flooded to allow a [load] **ship** to be floated in and drained to allow [that load] **the ship** to come to rest on a dry platform.

(c) "Fouling communities" means the matrix consisting of:

(A) Native or nonnative species attached to the hull of a ship including, but not limited to, barnacles, bivalves, bryozoans, tunicates and seaweeds; and

(B) Native or nonnative mobile species such as crustaceans, sea stars and worms that may be unattached to the hull, but that inhabit a fouling community or inhabit protected recesses and crevices in the hull, such as sea chests.

(d) "Fouling organisms" means native or nonnative species that attach to the hull of a ship including, but not limited to, sessile bottom-dwelling invertebrates, algae and microorganisms such as bacteria and diatoms.

(e) "Graving dock" means a paved excavation in the ground that can be flooded to allow a [load] **ship** to be floated in and drained to allow that [load] **ship** to come to rest on a dry platform.

(f) "Hazardous materials" includes, but is not limited to, asbestos, polychlorinated biphenyls, oil, fuel, bilge and ballast water, paint and lead.

(g) "Ocean shore" has the meaning given that term in ORS 390.605.

[(g)] **(h) "Ship"** means a vessel that weighs in excess of 200 gross tons and operates upon navigable waterways.

[(h)] **(i) "Shipbreaking"** means the process of dismantling a ship for scrap or disposal.

[(i)] **(j) "Shipwreck"** means a ship that has been stranded or destroyed by being driven ashore or onto the rocks or the shoal.

[(j)] **(k) "Waters of this state"** has the meaning given that term in ORS 196.800.

(2) In the State of Oregon, a person:

(a) May perform shipbreaking activities only in a dry dock.

(b) May not perform shipbreaking activities in [the waters of this state:]

[(A) At a pier.]

[(B) At a dismantling slip.]

[(C) In any other] a manner that allows hazardous materials, fouling communities or fouling organisms that are in or on the ship to enter the waters of this state **or the ocean shore**.

(3) Notwithstanding subsection (2) of this section, a person may in the waters of this state:

(a) Dismantle for removal a ship that has been shipwrecked if the Department of State Lands determines, in consultation with others as the department finds appropriate including, but not limited to, other state agencies, the United States Coast Guard and the shipowner, that it is physically impracticable to move the shipwreck to a dry dock.

(b) Partially dismantle a ship as may be required in the process of ship repair.

(4) Subsection (2) of this section does not apply to the shipbreaking of a flat-bottomed barge that is not self-propelled and that operates in the waters of this state.

(5) This section does not relieve a person from compliance with other state or local laws that apply to shipbreaking, shipwrecks or ship repair including, but not limited to, laws relating to hazardous materials, fouling communities or fouling organisms.

SECTION 4. Section 1 of this 2007 Act is repealed on the date of the convening of the next regular biennial legislative session.

Passed by Senate June 18, 2007

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Secretary of Senate

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President of Senate

Passed by House June 20, 2007

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Speaker of House

Received by Governor:

.....M,....., 2007

Approved:

.....M,....., 2007

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Governor

Filed in Office of Secretary of State:

.....M,....., 2007

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Secretary of State