

**A-Engrossed**  
**Senate Bill 737**

Ordered by the Senate May 9  
Including Senate Amendments dated May 9

Sponsored by Senators WALKER, G GEORGE

**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.

*[Directs Department of Environmental Quality to condition discharge permits to prohibit discharge of persistent bioaccumulative toxins in amounts or concentrations that may be harmful to aquatic life or human health.]*

**Directs Department of Environmental Quality to conduct study of persistent, bioaccumulative and toxic pollutants discharged in State of Oregon and report results of study to appropriate interim committee of Legislative Assembly by June 1, 2010.**

**Requires municipalities in possession of National Pollutant Discharge Elimination System permit or major source water pollution control facility permit to submit to department plan for reducing discharges of priority listed persistent, bioaccumulative and toxic pollutants.**

**Establishes Persistent, Bioaccumulative and Toxic Pollutant Control Account. Continuously appropriates moneys in account to department for implementation and enforcement of study.**

**Appropriates moneys from General Fund to department for biennial expenses related to implementation and enforcement of study.**

**Declares emergency, effective on passage.**

**A BILL FOR AN ACT**

1  
2 Relating to water quality; appropriating money; and declaring an emergency.

3 Whereas it is the goal of the State of Oregon's water quality protection scheme to protect,  
4 maintain and improve the quality of the waters of this state; and

5 Whereas persistent, bioaccumulative and toxic pollutants can pose a threat to the health and  
6 well-being of humans, fish and wildlife, especially aquatic species; and

7 Whereas there are many different sources of persistent, bioaccumulative and toxic pollutants  
8 that contribute to the presence of such pollutants in the waters of this state; and

9 Whereas the State of Oregon currently does not have a comprehensive approach toward such  
10 pollutants and their sources or an economically feasible alternative for reducing these pollutants;  
11 now, therefore,

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

13 **SECTION 1. Sections 2 to 8 of this 2007 Act are added to and made a part of ORS chapter**  
14 **468B.**

15 **SECTION 2. As used in sections 2 to 8 of this 2007 Act:**

16 (1) "Municipality" means a city or special district.

17 (2) "Permittee" means a municipality in possession of a major source National Pollutant  
18 Discharge Elimination System permit or a major source water pollution control facility per-  
19 mit issued by the Department of Environmental Quality pursuant to ORS 468B.050.

20 (3) "Persistent, bioaccumulative and toxic pollutant" means a substance that is toxic and

**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 either persists in the environment or accumulates in the tissues of humans, fish, wildlife and  
2 plants.

3 **SECTION 3.** (1) The Department of Environmental Quality shall conduct a study of per-  
4 sistent, bioaccumulative and toxic pollutants discharged in the State of Oregon and report  
5 the results of that study to an appropriate interim committee of the Seventy-fifth Legislative  
6 Assembly related to the environment by June 1, 2010.

7 (2) The department's report shall include, but is not limited to, the following components:

8 (a) A priority listing of persistent, bioaccumulative and toxic pollutants that pose a  
9 threat to the waters of this state, as defined in ORS 196.800, and the health and well-being  
10 of humans, fish and wildlife, especially aquatic species, based on factors including, but not  
11 limited to:

12 (A) Toxicological and bioaccumulative factors;

13 (B) The feasibility of reduction options;

14 (C) Data concerning pollutant dose and response; and

15 (D) Data regarding the magnitude and significance of specific ongoing and legacy dis-  
16 charges.

17 (b) Identification of individual point, nonpoint and legacy sources of priority listed per-  
18 sistent, bioaccumulative and toxic pollutants from existing data, including an analysis iden-  
19 tifying the quantity, concentration and volume of such pollutants discharged by individual  
20 sources on an annual basis.

21 (c) An evaluation and assessment of source reduction and technological control measures  
22 that can reduce the discharge of persistent, bioaccumulative and toxic pollutants into the  
23 waters of this state, including an assessment of the costs and effectiveness of such measures  
24 and which measures should be prioritized for reducing such pollutants.

25 (3) The department may contract with a private organization to conduct the study re-  
26 quired under this section.

27 (4) The department shall consult with interested local and tribal governments, state and  
28 federal agencies and other private organizations in preparing the report required under this  
29 section.

30 (5)(a) The department shall prepare and report the priority listing described in subsection  
31 (2)(a) of this section to the Seventy-fifth Legislative Assembly, in the manner provided by  
32 ORS 192.245, on or before June 1, 2009.

33 (b) After June 1, 2009, the department shall prepare and report the priority listing de-  
34 scribed in subsection (2)(a) of this section to a legislative committee related to the environ-  
35 ment on a schedule adopted by the department.

36 (6) For the purpose of defraying the cost of conducting and administering the study under  
37 this section, the department may impose a surcharge on permits issued by the department  
38 to permittees and other municipal permit holders as determined by the department. Moneys  
39 collected under this subsection shall be deposited into the Persistent, Bioaccumulative and  
40 Toxic Pollutant Control Account established under section 7 of this 2007 Act.

41 **SECTION 4.** (1) By July 1, 2011, each permittee shall submit to the Department of Envi-  
42 ronmental Quality a plan for reducing their discharges of priority listed persistent,  
43 bioaccumulative and toxic pollutants that occur:

44 (a) In concentrations greater than the standards contained in the Safe Drinking Water  
45 Act, 42 U.S.C. 300h et seq.; or

1 (b) In concentrations or loads that the Environmental Quality Commission may deter-  
2 mine pose a threat to ecosystems, fish, wildlife or human health.

3 (2) Plans submitted to the department pursuant to subsection (1) of this section shall  
4 include, but are not limited to:

5 (a) A specific description of the concentrations and estimated annual quantity of per-  
6 sistent, bioaccumulative and toxic pollutants that are discharged, based on water quality  
7 sampling data.

8 (b) The identification of measures to reduce the discharge of persistent, bioaccumulative  
9 and toxic pollutants.

10 (c) The identification of focused goals for reduction of persistent, bioaccumulative and  
11 toxic pollutants.

12 (3) Measures identified to reduce persistent, bioaccumulative and toxic pollutants may  
13 include, but are not limited to:

14 (a) Collecting legacy pesticides;

15 (b) Reducing mercury amalgams in dental offices;

16 (c) Implementing technological control measures;

17 (d) Changing manufacturing processes;

18 (e) Returning arm cuffs from blood pressure monitors;

19 (f) Requiring contractors to return heating, ventilating and air-conditioning system  
20 thermostats;

21 (g) Recycling fluorescent lamps;

22 (h) Recycling rechargeable batteries;

23 (i) Monitoring abandoned mining sites;

24 (j) Managing sediments contaminated with persistent, bioaccumulative and toxic  
25 pollutants;

26 (k) Instituting policies for cleaning school laboratories;

27 (L) Instituting drug take-back programs; and

28 (m) Taking steps to reduce the presence of mercury in schools.

29 (4) The department shall require, as a condition of receiving new or renewed discharge  
30 permits issued by the department, that permit applicants:

31 (a) Implement plans to reduce the discharge of persistent, bioaccumulative and toxic  
32 pollutants according to pollution reduction goals adopted by permit applicants; and

33 (b) Submit updated discharge reduction plans with applications to renew a permit.

34 (5) The department shall incorporate plans submitted by permittees pursuant to sub-  
35 section (1) of this section into a new or renewed major source National Pollutant Discharge  
36 Elimination System or major source water pollution control facility permit issued to a permit  
37 applicant.

38 SECTION 5. In accordance with applicable provisions of ORS chapter 183, the Environ-  
39 mental Quality Commission may adopt rules necessary for the administration of sections 3  
40 and 4 of this 2007 Act.

41 SECTION 6. (1) The Department of Environmental Quality may apply to any circuit court  
42 for an order compelling compliance with any rule adopted by the department under section  
43 5 of this 2007 Act. If the court finds that the defendant is not complying with any rule so  
44 adopted, the court shall grant an injunction requiring compliance. The court, on motion and  
45 affidavits, may grant a preliminary injunction ex parte upon such terms as are just.

1       **(2) The department need not give security before the issuance of an injunction under this**  
2 **section.**

3       **(3) The court may award reasonable attorney fees and costs to the department if the**  
4 **department prevails in an action under this section.**

5       **SECTION 7. The Persistent, Bioaccumulative and Toxic Pollutant Control Account is es-**  
6 **tablished, separate and distinct from the General Fund. Interest earned by the account shall**  
7 **be credited to the account. Moneys may be credited to the account from any public or private**  
8 **source. Moneys in the account are continuously appropriated to the Department of Envi-**  
9 **ronmental Quality and may be used only for the purposes described in sections 3 to 6 of this**  
10 **2007 Act.**

11       **SECTION 8. All moneys received by the Department of Environmental Quality under**  
12 **section 6 of this 2007 Act shall be deposited to the credit of the Persistent, Bioaccumulative**  
13 **and Toxic Pollutant Control Account established under section 7 of this 2007 Act.**

14       **SECTION 9. There is appropriated to the Department of Environmental Quality, for the**  
15 **biennium beginning July 1, 2007, out of the General Fund, the amount of \$\_\_\_\_\_ for the**  
16 **purpose of carrying out the provisions of sections 3 to 6 of this 2007 Act.**

17       **SECTION 10. This 2007 Act being necessary for the immediate preservation of the public**  
18 **peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect**  
19 **on its passage.**

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