

## SENATE AMENDMENTS TO SENATE BILL 945

By COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

May 2

1 On page 1 of the printed bill, delete lines 13 through 27 and delete pages 2 through 5 and insert:

2  
3 **“SUBSTANTIVE PROVISIONS OPERATIVE IN 2014**  
4 **“AND RELATED PROVISIONS**

5  
6 **“SECTION 1. As used in sections 1 to 4 and 7 of this 2011 Act:**

7 **“(1) ‘Brake friction material’ means the part of a vehicle brake designed to slow or stop**  
8 **the movement of a motor vehicle or trailer through friction against a rotor made of more**  
9 **durable material.**

10 **“(2) ‘Commercial motor vehicle’ has the meaning given that term in ORS 801.208.**

11 **“(3) ‘Distributor’ means a person that distributes brake friction material, motor vehicles**  
12 **or trailers from manufacturers to retailers.**

13 **“(4) ‘Manufacturer’ means a person that manufactures, assembles or produces brake**  
14 **friction material, motor vehicles or trailers.**

15 **“(5)(a) ‘Motor vehicle’ has the meaning given that term in ORS 801.360.**

16 **“(b) Notwithstanding paragraph (a) of this subsection, ‘motor vehicle’ does not include:**

17 **“(A) Motorcycles as defined in ORS 801.365.**

18 **“(B) Mopeds as defined in ORS 801.345.**

19 **“(C) Motor vehicles with internal closed oil-immersed brakes or other brake systems that**  
20 **are fully contained and emit no debris or fluid under normal operating conditions.**

21 **“(D) Class I or Class III all-terrain vehicles as defined in ORS 801.190 and 801.194.**

22 **“(E) Racing activity vehicles as defined in ORS 801.404.**

23 **“(F) Vehicles owned by the United States Government.**

24 **“(G) Antique vehicles as defined in ORS 801.125.**

25 **“(6) ‘Retailer’ means a person that sells or offers for sale brake friction material, motor**  
26 **vehicles or trailers to ultimate consumers.**

27 **“(7) ‘Special class of motor vehicle’ includes classes of commercial motor vehicles, fire**  
28 **trucks and police cars.**

29 **“(8) ‘Trailer’ means a vehicle without motive power designed to be drawn by a commer-**  
30 **cial motor vehicle.**

31 **“(9)(a) ‘Vehicle brake’ means an energy conversion mechanism used to slow or stop the**  
32 **movement of a motor vehicle or trailer.**

33 **“(b) ‘Vehicle brake’ does not include a brake that is designed primarily to hold a motor**  
34 **vehicle or trailer stationary and that is not for use while the motor vehicle or trailer is in**  
35 **motion.**

1       “(10) ‘Wholesaler’ means a person that sells or offers for sale brake friction material,  
2 motor vehicles or trailers to retailers, distributors or other wholesalers for resale.

3       “SECTION 2. (1) A manufacturer may not sell or offer for sale in this state, and a  
4 wholesaler, retailer or distributor may not knowingly sell or offer for sale in this state, brake  
5 friction material or motor vehicles or trailers with brake friction material containing any  
6 of the following fibers or elements in an amount exceeding the specified concentrations:

7       “(a) Asbestiform fibers, 0.1 percent by weight.

8       “(b) Cadmium and its compounds, 0.01 percent by weight.

9       “(c) Chromium(VI) salts, 0.1 percent by weight.

10       “(d) Lead and its compounds, 0.1 percent by weight.

11       “(e) Mercury and its compounds, 0.1 percent by weight.

12       “(2) This section does not apply to:

13       “(a) The sale or offering for sale of a motor vehicle or trailer previously sold at retail;

14 or

15       “(b) The sale or offering for sale of a specific motor vehicle model:

16       “(A) For which there are no more than 1,000 total units annually sold in this state, based  
17 on the average number of units sold during each of the three previous model years; and

18       “(B) That requires the use of brake friction material that does not comply with this  
19 section.

20       “(3) A manufacturer of a specific motor vehicle model or manufacturer of a special class  
21 of motor vehicles may apply to the Department of Environmental Quality for an exemption  
22 from this section for brake friction material intended for use on a specific motor vehicle  
23 model or a special class of motor vehicles based on the special needs or characteristics of  
24 the motor vehicle model or special class of motor vehicles for which the brake friction ma-  
25 terial is intended.

26       “(4) A manufacturer petitioning for an exemption under subsection (3) of this section  
27 must demonstrate to the satisfaction of the department that:

28       “(a) Complying with the requirements of this section is not feasible, does not allow for  
29 compliance with state or federal safety standards or will cause significant financial hardship;

30 or

31       “(b) The manufacturer has received an exemption from another state that requires brake  
32 friction material to contain concentrations of fibers or elements in an amount that is equal  
33 to or less than the amounts specified in subsection (1) of this section.

34       “(5) Exemptions granted under subsection (3) of this section are valid for no less than  
35 one year, may be renewed automatically and may be granted permanently for as long as the  
36 motor vehicle has the special need or characteristic described in the exemption application.

37       “SECTION 3. (1) The Department of Environmental Quality may impose a civil penalty  
38 on a manufacturer, wholesaler, retailer or distributor that violates section 2 of this 2011 Act.  
39 A civil penalty imposed under this section may not exceed \$10,000 for each violation.

40       “(2) The department may periodically purchase and test brake friction material sold or  
41 offered for sale in this state to verify that the material complies with section 2 of this 2011  
42 Act.

43       “(3) Notwithstanding subsection (1) of this section, the department shall issue at least  
44 one warning letter by certified mail to a manufacturer, wholesaler, retailer or distributor  
45 that violates section 2 of this 2011 Act before imposing a civil penalty. The warning letter

1 shall provide information on complying with section 2 of this 2011 Act.

2 “(4) The department shall impose civil penalties under this section in the manner pro-  
3 vided in ORS 183.745.

4 “SECTION 4. (1) A brake friction material manufacturer that violates section 2 of this  
5 2011 Act shall recall the brake friction material within six months after discovering that the  
6 violation occurred and reimburse a wholesaler, retailer, distributor or ultimate consumer for  
7 the brake friction material and for the shipping and handling costs required to return the  
8 brake friction material.

9 “(2) A motor vehicle manufacturer that violates section 2 of this 2011 Act shall notify the  
10 registered owner of the affected vehicle within six months after discovering that the vio-  
11 lation occurred and pay all costs associated with replacing the noncompliant brake friction  
12 material with brake friction material that complies with section 2 of this 2011 Act. For pur-  
13 poses of this subsection, ‘motor vehicle manufacturer’ does not include a person that has  
14 been issued a vehicle dealer certificate under ORS 822.020 and is acting as a vehicle dealer  
15 as described in ORS 822.005 to 822.084.

16 “(3) The Department of Environmental Quality may impose a civil penalty on a motor  
17 vehicle manufacturer that violates subsection (2) of this section. A civil penalty imposed  
18 under this section may not exceed \$10,000 for each violation or \$100,000 in the aggregate for  
19 all violations that occur within any three-month period.

20 “(4) The department shall impose civil penalties under this section in the manner pro-  
21 vided in ORS 183.745.

22 “SECTION 5. Sections 1 to 4 of this 2011 Act become operative July 1, 2014.

23 “SECTION 6. (1) Sections 1 to 4 of this 2011 Act apply to brake friction material and  
24 motor vehicles and trailers with brake friction material sold or offered for sale in this state  
25 on or after July 1, 2014.

26 “(2) Notwithstanding subsection (1) of this section, sections 1 to 4 of this 2011 Act do not  
27 apply to:

28 “(a) Motor vehicles or trailers that are manufactured before July 1, 2014;

29 “(b) Brake friction material that is manufactured before July 1, 2014; or

30 “(c) Brake friction material made for use on motor vehicles or trailers that are manu-  
31 factured before July 1, 2014.

32  
33 “SUBSTANTIVE PROVISIONS OPERATIVE IN 2015

34 “AND RELATED PROVISIONS

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36 “SECTION 7. (1) Manufacturers of brake friction material sold or offered for sale in this  
37 state shall:

38 “(a) Certify compliance with section 2 of this 2011 Act with a third-party organization or  
39 accredited laboratory that has been approved by the Department of Environmental Quality;  
40 and

41 “(b) Mark brake friction material sold or offered for sale in this state with proof of cer-  
42 tification in a manner prescribed by the department by rule.

43 “(2) A third-party organization must use an accredited laboratory for purposes of certi-  
44 fying brake friction material under this section.

45 “(3) As used in this section, ‘accredited laboratory’ means a laboratory that is:

1       “(a) Qualified to test products, materials, equipment and installations in accordance with  
2 national or international standards; and

3       “(b) Accredited by a third-party organization approved by the department to accredit  
4 laboratories under this section.

5       “**SECTION 8.** Section 3 of this 2011 Act is amended to read:

6       “**Sec. 3.** (1) The Department of Environmental Quality may impose a civil penalty on a man-  
7 ufacturer, wholesaler, retailer or distributor that violates section 2 or 7 of this 2011 Act. A civil  
8 penalty imposed under this section may not exceed \$10,000 for each violation.

9       “(2) The department may periodically purchase and test brake friction material sold or offered  
10 for sale in this state to verify that the material complies with [section 2] **sections 2 and 7** of this  
11 2011 Act.

12       “(3) Notwithstanding subsection (1) of this section, the department shall issue at least one  
13 warning letter by certified mail to a manufacturer, wholesaler, retailer or distributor that violates  
14 section 2 or 7 of this 2011 Act before imposing a civil penalty. The warning letter shall provide in-  
15 formation on complying with section 2 or 7 of this 2011 Act.

16       “(4) The department shall impose civil penalties under this section in the manner provided in  
17 ORS 183.745.

18       “**SECTION 9.** Section 7 of this 2011 Act and the amendments to section 3 of this 2011 Act  
19 by section 8 of this 2011 Act become operative January 1, 2015.

20       “**SECTION 10.** (1) Section 7 of this 2011 Act and the amendments to section 3 of this 2011  
21 Act by section 8 of this 2011 Act apply to brake friction material and motor vehicles and  
22 trailers with brake friction material sold or offered for sale in this state on or after January  
23 1, 2015.

24       “(2) Notwithstanding subsection (1) of this section, section 7 of this 2011 Act and the  
25 amendments to section 3 of this 2011 Act by section 8 of this 2011 Act do not apply to:

26       “(a) Motor vehicles or trailers that are manufactured before July 1, 2014;

27       “(b) Brake friction material that is manufactured before July 1, 2014; or

28       “(c) Brake friction material made for use on motor vehicles or trailers that are manu-  
29 factured before July 1, 2014.

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31                                   “SUBSTANTIVE PROVISIONS OPERATIVE IN 2021

32                                   “AND RELATED PROVISIONS

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34       “**SECTION 11.** Section 2 of this 2011 Act is amended to read:

35       “**Sec. 2.** (1) A manufacturer may not sell or offer for sale in this state, and a wholesaler, retailer  
36 or distributor may not knowingly sell or offer for sale in this state, brake friction material or motor  
37 vehicles or trailers with brake friction material containing any of the following fibers or elements  
38 in an amount exceeding the specified concentrations:

39       “(a) Asbestiform fibers, 0.1 percent by weight.

40       “(b) Cadmium and its compounds, 0.01 percent by weight.

41       “(c) Chromium(VI) salts, 0.1 percent by weight.

42       “(d) Lead and its compounds, 0.1 percent by weight.

43       “(e) Mercury and its compounds, 0.1 percent by weight.

44       “(f) **Copper and its compounds, five percent by weight.**

45       “(2) This section does not apply to:

1 “(a) The sale or offering for sale of a motor vehicle or trailer previously sold at retail; or

2 “(b) The sale or offering for sale of a specific motor vehicle model:

3 “(A) For which there are no more than 1,000 total units annually sold in this state, based on the  
4 average number of units sold during each of the three previous model years; and

5 “(B) That requires the use of brake friction material that does not comply with this section.

6 “(3) A manufacturer of a specific motor vehicle model or manufacturer of a special class of  
7 motor vehicles may apply to the Department of Environmental Quality for an exemption from this  
8 section for brake friction material intended for use on a specific motor vehicle model or a special  
9 class of motor vehicles based on the special needs or characteristics of the motor vehicle model or  
10 special class of motor vehicles for which the brake friction material is intended.

11 “(4) A manufacturer petitioning for an exemption under subsection (3) of this section must  
12 demonstrate to the satisfaction of the department that:

13 “(a) Complying with the requirements of this section is not feasible, does not allow for compli-  
14 ance with state or federal safety standards or will cause significant financial hardship; or

15 “(b) The manufacturer has received an exemption from another state that requires brake friction  
16 material to contain concentrations of fibers or elements in an amount that is equal to or less than  
17 the amounts specified in subsection (1) of this section.

18 “(5) Exemptions granted under subsection (3) of this section are valid for no less than one year,  
19 may be renewed automatically and may be granted permanently for as long as the motor vehicle has  
20 the special need or characteristic described in the exemption application.

21 “**SECTION 12. The amendments to section 2 of this 2011 Act by section 11 of this 2011  
22 Act become operative January 1, 2021.**

23 “**SECTION 13. (1) The amendments to section 2 of this 2011 Act by section 11 of this 2011  
24 Act apply to brake friction material and motor vehicles and trailers with brake friction ma-  
25 terial sold or offered for sale in this state on or after January 1, 2021.**

26 “**(2) Notwithstanding subsection (1) of this section, the amendments to section 2 of this  
27 2011 Act by section 11 of this 2011 Act do not apply to:**

28 “**(a) Motor vehicles or trailers that are manufactured before January 1, 2021;**

29 “**(b) Brake friction material that is manufactured before January 2, 2021; or**

30 “**(c) Brake friction material made for use on motor vehicles or trailers that are manu-  
31 factured before January 1, 2021.**

32  
33 “**ADDITION TO WATER QUALITY LAW**

34 “**AND CONSISTENCY OF REGULATION**

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36 “**SECTION 14. Sections 1 to 4, 7 and 15 of this 2011 Act are added to and made a part of  
37 ORS chapter 468B.**

38 “**SECTION 15. To the extent practicable, the Department of Environmental Quality shall  
39 consult and coordinate with other states to achieve interstate consistency in the implemen-  
40 tation of sections 1 to 4 and 7 of this 2011 Act.**

41  
42 “**STUDY REQUIREMENTS**

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44 “**SECTION 16. (1) The Department of Environmental Quality shall determine whether the  
45 Brake Friction Material Advisory Committee in the State of Washington has found that al-**

1 alternative brake friction material is available.

2 “(2) If the department determines that the Brake Friction Material Advisory Committee  
3 has found that alternative brake friction material is available, the department, within one  
4 year after making the determination, shall publish a report on the findings of the committee  
5 and present the report to the appropriate committees of the Legislative Assembly. The re-  
6 port must include:

7 “(a) Recommendations on decreasing the amount of copper and its compounds allowed  
8 under section 2 of this 2011 Act as amended by section 11 of this 2011 Act to an amount that  
9 is equal to or less than 0.5 percent by weight;

10 “(b) Recommendations for exemptions, including exemptions for:

11 “(A) Original equipment service and after-market brake friction material; and

12 “(B) Brake friction material manufactured prior to the date of the report; and

13 “(c) Recommendations for an amount of time sufficient to allow manufacturers to comply  
14 with the recommendations made by the department under paragraph (a) of this subsection.

15 “(3) Notwithstanding subsection (2) of this section, the department may include in the  
16 report recommendations for commercial motor vehicles that are different from recommen-  
17 dations for other types of motor vehicles.

18 “(4) As used in this section, ‘alternative brake friction material’ means brake friction  
19 material that:

20 “(a) Does not contain:

21 “(A) More than 0.5 percent copper and its compounds by weight;

22 “(B) The fibers and elements identified in section 2 of this 2011 Act above the concen-  
23 trations specified in section 2 of this 2011 Act; and

24 “(C) Other materials determined by the department to be more harmful to human health  
25 or the environment than existing brake friction material;

26 “(b) Enables vehicle brakes to meet applicable federal safety standards or, if no federal  
27 safety standards exist, widely accepted industry standards;

28 “(c) Is available at a cost and in a quantity that does not cause significant financial  
29 hardship to a majority of manufacturers; and

30 “(d) Is available to enable manufacturers to produce viable products that meet consumer  
31 expectations regarding braking noise, shuddering and durability.

32 “(5) The definitions in section 1 of this 2011 Act apply to this section.

33 “SECTION 17. Section 16 of this 2011 Act is repealed January 2, 2026.

34  
35 “UNIT CAPTIONS

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37 “SECTION 18. The unit captions used in this 2011 Act are provided only for the conven-  
38 ience of the reader and do not become part of the statutory law of this state or express any  
39 legislative intent in the enactment of this 2011 Act.”.