

# House Bill 4151

Sponsored by Representative READ; Representatives BAILEY, KENY-GUYER, WAND, Senators BOQUIST, STEINER HAYWARD (Pre-session filed.)

## 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 **as introduced**.

Requires Oregon Department of Administrative Services to create chemical disclosure form. Becomes operative January 1, 2014.

If certain conditions are met, requires contracting state agencies charged with procuring goods or services for public use to give preference to procurement of goods or services that are environmentally preferable. Becomes operative January 1, 2014.

Allows bidders and proposers to submit information on pilot products on or after January 1, 2014. Expands types of pilot product categories and requires bidders and proposers to submit chemical disclosure forms for all pilot products on or after January 1, 2016.

## A BILL FOR AN ACT

Relating to environmentally preferable procurements.

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

## PROVISIONS THAT BECOME OPERATIVE IN 2014

**SECTION 1. Creation of chemical disclosure form.** (1) The Oregon Department of Administrative Services shall create a chemical disclosure form for use in the department's solicitation and award process. The purpose of the chemical disclosure form is to provide information about products identified under section 2 of this 2012 Act. The chemical disclosure form must contain all of the following information:

(a) A description of the product, including the brand name and manufacturer.

(b) An inventory of ingredients, including all intentionally added chemical ingredients, as well as residuals and contaminants found in the final product at concentrations above 100 parts per million, the percentage amount of each ingredient, the ingredient name and the Chemical Abstracts Service registry number.

(c) The signature of the bidder or proposer, certifying that all information contained in the chemical disclosure form is true, accurate and complete.

(d) The health and environmental hazards that are intrinsic to the chemicals used in the product.

(e) A description of the product's impacts on health and the environment. Health impacts include carcinogenicity, mutagenicity, genotoxicity, reproductive toxicity, developmental toxicity, endocrine activity, acute toxicity, systemic toxicity, adverse effects to organs, neurotoxicity, respiratory sensitization, skin sensitization and eye irritation. Environmental impacts include acute and chronic aquatic toxicity.

(f) The contact information for the manufacturer of the product, including a phone number, an electronic mail address, a mailing address and a product website.

**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 (g) Whether the goods or services are designed and manufactured using the following  
2 principles of green chemistry:

3 (A) They avoid the use of hazardous chemicals.

4 (B) They maximize the incorporation of all materials used to create the final product.

5 (C) They use and generate substances that minimize toxicity to health and the environ-  
6 ment.

7 (D) They effect their desired function while minimizing the toxicity of the product.

8 (E) They minimize the use of extraneous substances.

9 (F) They minimize the amount of energy used when creating chemical products.

10 (G) They use renewable raw material or feedstock.

11 (H) They minimize or avoid the conversion of a chemical compound into a derivative.

12 (I) They use catalytic reagents instead of stoichiometric reagents.

13 (J) They are designed so that chemicals used in the goods and services break down into  
14 innocuous substances.

15 (K) They use a chemical process that minimizes the potential for chemical accidents,  
16 including chemical releases, explosions and fires.

17 (2) The department shall adopt rules for the implementation of this section.

18 SECTION 2. Pilot product categories. (1) The Oregon Department of Administrative Ser-  
19 vices shall select two pilot product categories. The types of product categories may include  
20 janitorial supplies or building materials.

21 (2) Each bidder or proposer of a product included in the pilot product categories selected  
22 under subsection (1) of this section may submit a chemical disclosure form described in  
23 section 1 of this 2012 Act in a manner provided by the department by rule.

24 SECTION 3. Section 4 of this 2012 Act is added to and made a part of ORS chapter 279A.

25 SECTION 4. Health and environmental considerations in state purchasing decisions. (1)  
26 As used in this section:

27 (a) "Contracting state agency" means every state officer, board, commission, depart-  
28 ment, institution, branch or agency of the state government.

29 (b) "Environmentally preferable" means goods and services that have a lesser or reduced  
30 negative effect on health and the environment when compared with competing goods and  
31 services that serve the same purpose. This comparison may consider acquisition of raw ma-  
32 terials or production, manufacturing, packaging, distribution, reuse, operation, maintenance  
33 or disposal of the goods or services.

34 (2) Notwithstanding any provision of the Public Contracting Code requiring a contracting  
35 state agency to award a contract to the lowest responsible bidder or best proposer or pro-  
36 vider of a quotation, and subject to subsection (3) of this section, a contracting state agency  
37 charged with the procurement of goods and services for any public use shall give preference  
38 to the procurement of goods and services that are environmentally preferable.

39 (3) A contracting state agency shall give preference under this section to goods and ser-  
40 vices that are environmentally preferable if the costs do not exceed the costs of goods or  
41 services that are not environmentally preferable by more than five percent, or by a higher  
42 percentage if a written determination is made by the contracting state agency.

43 (4) The Oregon Department of Administrative Services may provide any information on  
44 best practices or appropriate training materials for environmentally preferable purchasing  
45 that are necessary for contracting state agencies to procure environmentally preferable

1 goods and services.

2 (5) The Oregon Department of Administrative Services shall use third-party certifications  
 3 for the selection of environmentally preferable goods whenever practicable. The Oregon De-  
 4 partment of Administrative Services, in consultation with the Department of Environmental  
 5 Quality, shall identify approved third-party certifications for products purchased through  
 6 public solicitation.

7 **SECTION 5.** (1) Sections 1, 2 and 4 of this 2012 Act become operative January 1, 2014.

8 (2) Notwithstanding subsection (1) of this section, the Oregon Department of Adminis-  
 9 trative Services may take any action before the operative date specified in subsection (1) of  
 10 this section that is necessary to enable the department to exercise, on and after the opera-  
 11 tive date specified in subsection (1) of this section, all the duties, functions and powers con-  
 12 ferred on the department by sections 1, 2 and 4 of this 2012 Act.

13 **SECTION 6.** Section 4 of this 2012 Act applies to contracts first advertised or otherwise  
 14 solicited or, if not advertised or solicited, entered into on or after the operative date specified  
 15 in section 5 of this 2012 Act.

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 17 **PROVISIONS THAT BECOME OPERATIVE IN 2015**

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 19 **SECTION 7. Data collection on environmentally preferable purchasing.** (1) The Oregon  
 20 Department of Administrative Services shall require contracting state agencies, as defined  
 21 in section 4 of this 2012 Act, to collect information from bidders and proposers that will allow  
 22 the department to determine:

23 (a) The number of solicitations in which environmentally preferable specifications are  
 24 included as a part of the solicitation.

25 (b) The approximate total dollar amount spent on environmentally preferable goods or  
 26 services by this state.

27 (2) The department shall make the information collected under subsection (1) of this  
 28 section and a description of barriers to increasing environmentally preferable purchasing by  
 29 this state publicly available in an electronic format.

30 **SECTION 8.** (1) Section 7 of this 2012 Act becomes operative January 1, 2015.

31 (2) Notwithstanding subsection (1) of this section, the Oregon Department of Adminis-  
 32 trative Services may take any action before the operative date specified in subsection (1) of  
 33 this section that is necessary to enable the department to exercise, on and after the opera-  
 34 tive date specified in subsection (1) of this section, all the duties, functions and powers con-  
 35 ferred on the department by section 7 of this 2012 Act.

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 37 **PROVISIONS THAT BECOME OPERATIVE IN 2016**

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 39 **SECTION 9.** Section 2 of this 2012 Act is amended to read:

40 **Sec. 2. Additional pilot product categories.** (1) As used in this section, “chemicals of  
 41 concern” means those chemicals identified in the Department of Environmental Quality’s  
 42 Toxics Focus List included in the department’s Toxics Reduction Strategy.

43 [(1)] (2) The Oregon Department of Administrative Services shall select two pilot product cate-  
 44 gories. The types of product categories may include janitorial supplies or building materials.

45 (3) In addition to the two pilot product categories selected in subsection (2) of this sec-

tion, the Oregon Department of Administrative Services, in consultation with the Department of Environmental Quality, the Oregon University System and the Oregon Innovation Council, shall select three additional pilot product categories. In selecting the additional product categories, the Oregon Department of Administrative Services shall consider all of the following:

(a) The annual cost of purchasing a product included in the product category.

(b) The estimated quantity of a product included in the product category purchased annually.

(c) The current or anticipated availability of similar products that contain safer alternatives to chemicals of concern.

(d) The manufacturing location of a product included in the product category.

[(2)] (4) Each bidder or proposer of a product included in the pilot product categories selected under [subsection (1) of] this section [may] shall submit a chemical disclosure form described in section 1 of this 2012 Act in a manner provided by the Oregon Department of Administrative Services by rule.

**SECTION 10.** Section 7 of this 2012 Act is amended to read:

**Sec. 7. Data collection on environmentally preferable purchasing and chemical disclosure form.** (1) The Oregon Department of Administrative Services shall require contracting state agencies, as defined in section 4 of this 2012 Act, to collect information from bidders and proposers that will allow the department to determine:

(a) The number of solicitations in which environmentally preferable specifications and chemical disclosure forms are included as a part of the solicitation.

(b) The approximate total dollar amount spent on environmentally preferable goods or services by this state.

(2) The department shall make the information collected under subsection (1) of this section and a description of barriers to increasing environmentally preferable purchasing by this state publicly available in an electronic format.

**SECTION 11.** (1) The amendments to sections 2 and 7 this 2012 Act by sections 9 and 10 of this 2012 Act become operative January 1, 2016.

(2) Notwithstanding subsection (1) of this section, the Oregon Department of Administrative Services may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the department to exercise, on and after the operative date specified in subsection (1) of this section, all the duties, functions and powers conferred on the department by the amendments to sections 2 and 7 of this 2012 Act by sections 9 and 10 of this 2012 Act.

**SECTION 12.** The amendments to sections 2 and 7 of this 2012 Act by sections 9 and 10 of this 2012 Act apply to contracts first advertised or otherwise solicited or, if not advertised or solicited, entered into on or after the operative date specified in section 11 of this 2012 Act.

UNIT AND SECTION CAPTIONS

**SECTION 13.** The unit and section captions used in this 2012 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2012 Act.

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