

A-Engrossed
House Bill 3103

Ordered by the House April 15
Including House Amendments dated April 15

Sponsored by COMMITTEE ON ENERGY AND ENVIRONMENT

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.

Modifies terms related to oil spills.

A BILL FOR AN ACT

Relating to water quality; creating new provisions; and amending ORS 468B.300.

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

SECTION 1. ORS 468B.300 is amended to read:

468B.300. As used in ORS 468.020, 468.095, 468.140 (3) and 468B.300 to 468B.500:

(1) "Bulk" means material stored or transported in loose, unpackaged liquid, powder or granular form capable of being conveyed by a pipe, bucket, chute or belt system.

(2) "Cargo vessel" means a self-propelled ship in commerce, other than a tank vessel, of 300 gross tons or more. "Cargo vessel" does not include a vessel used solely for commercial fish harvesting.

(3) "Commercial fish harvesting" means taking food fish with any gear unlawful for angling under ORS 506.006, or taking food fish in excess of the limits permitted for personal use, or taking food fish with the intent of disposing of such food fish or parts thereof for profit, or by sale, barter or trade, in commercial channels.

(4) "Contingency plan" means an oil spill prevention and emergency response plan required under ORS 468B.345.

(5) "Covered vessel" means a tank vessel, cargo vessel, passenger vessel or dredge vessel.

(6) "Damages" includes damages, costs, losses, penalties or attorney fees of any kind for which liability may exist under the laws of this state resulting from, arising out of or related to the discharge or threatened discharge of oil.

(7) "Discharge" means any emission other than natural seepage of oil, whether intentional or unintentional. "Discharge" includes but is not limited to spilling, leaking, pumping, pouring, emitting, emptying or dumping oil.

(8) "Dredge vessel" means a self-propelled vessel of 300 or more gross tons that is equipped for regularly engaging in dredging of submerged and submersible lands.

(9) "Exploration facility" means a platform, vessel or other offshore facility used to explore for oil in the navigable waters of the state. "Exploration facility" does not include platforms or vessels used for stratigraphic drilling or other operations that are not authorized or intended to drill to a producing formation.

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 (10) "Facility" means a pipeline or any structure, group of structures, equipment or device, other
2 than a vessel [*located on or near*] **that transfers oil over** navigable waters of [a] **the** state, that is
3 used for producing, storing, handling, transferring, processing or transporting oil in bulk and that
4 is capable of storing or transporting 10,000 or more gallons of oil. "Facility" does not include:

5 (a) A railroad car, motor vehicle or other rolling stock while transporting oil over the highways
6 or rail lines of this state;

7 (b) An underground storage tank regulated by the Department of Environmental Quality or a
8 local government under ORS 466.706 to 466.882 and 466.994; or

9 (c) [*Any structure, group of structures, equipment or device, other than a vessel located on or near*
10 *navigable waters of a state, that is used for producing, storing, handling, transferring, processing or*
11 *transporting oil in bulk and that is capable of storing or transporting 10,000 or more gallons of oil but*
12 *does not receive oil from tank vessels, barges or pipelines*] **A marina, or a public fueling station,**
13 **that is engaged exclusively in the direct sale of fuel, or any other product used for propul-**
14 **sion, to a final user of the fuel or other product.**

15 (11) "Federal on-scene coordinator" means the federal official predesignated by the United
16 States Environmental Protection Agency or the United States Coast Guard to coordinate and direct
17 federal responses or the official designated by the lead agency to coordinate and direct removal
18 under the National Contingency Plan.

19 (12) "Hazardous material" has the meaning given that term in ORS 466.605.

20 (13) "Maritime association" means an association or cooperative of marine terminals, facilities,
21 vessel owners, vessel operators, vessel agents or other maritime industry groups, that provides oil
22 spill response planning and spill related communications services within the state.

23 (14) "Maximum probable spill" means the maximum probable spill for a vessel operating in the
24 navigable waters of the state considering the history of spills of vessels of the same class operating
25 on the west coast of the United States.

26 (15) "Navigable waters" means the Columbia River, the Willamette River up to Willamette Falls,
27 the Pacific Ocean and estuaries to the head of tidewater.

28 (16) "National Contingency Plan" means the plan prepared and published under section 311(d)
29 of the Federal Water Pollution Control Act, 33 U.S.C. 1321(d), as amended by the Oil Pollution Act
30 of 1990 (P.L. 101-380).

31 (17) "Offshore facility" means any facility located in, on or under any of the navigable waters
32 of the state.

33 (18) "Oils" or "oil" means oil, including gasoline, crude oil, fuel oil, diesel oil, lubricating oil,
34 sludge, oil refuse and any other petroleum related product and liquefied natural gas.

35 (19) "Onshore facility" means any facility located in, on or under any land of the state, other
36 than submerged land, that, because of its location, could reasonably be expected to cause substantial
37 harm to the environment by discharging oil into or on the navigable waters of the state or adjoining
38 shorelines.

39 (20) "Passenger vessel" means a ship of 300 or more gross tons carrying passengers for com-
40 pensation.

41 (21) "Person" has the meaning given the term in ORS 468.005.

42 (22) "Person having control over oil" includes but is not limited to any person using, storing or
43 transporting oil immediately prior to entry of such oil into the navigable waters of the state, and
44 shall specifically include carriers and bailees of such oil.

45 (23) "Pipeline" means a facility, including piping, compressors, pump stations and storage tanks,

1 used to transport oil between facilities or between facilities and tank vessels.

2 (24) "Region of operation" with respect to the holder of a contingency plan means the area
3 where the operations of the holder that require a contingency plan are located.

4 (25) "Removal costs" means the costs of removal that are incurred after a discharge of oil has
5 occurred or, in any case in which there is a substantial threat of a discharge of oil, the costs to
6 prevent, minimize or mitigate oil pollution from the incident.

7 (26) "Responsible party" has the meaning given under section 1001 of the Oil Pollution Act of
8 1990 (P.L. 101-380).

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

10 (28)(a) "State on-scene coordinator" means the state official appointed by the Department of
11 Environmental Quality to represent the department and the State of Oregon in response to an oil
12 or hazardous material spill or release or threatened spill or release and to coordinate cleanup re-
13 sponse with state and local agencies.

14 (b) For purposes of this subsection:

15 (A) "Spill or release" means the discharge, deposit, injection, dumping, spilling, emitting, re-
16 leasing, leaking or placing of any oil or hazardous material into the air or into or on any land or
17 waters of this state except as authorized by a permit issued under ORS chapter 454, 459, 459A, 468,
18 468A, 468B or 469 or ORS 466.005 to 466.385, 466.990 (1) and (2) or 466.992 or federal law, or except
19 when being stored or used for its intended purpose.

20 (B) "Threatened spill or release" means that oil or hazardous material is likely to escape or be
21 carried into the air or into or on any land or waters of this state.

22 (29) "Tank vessel" means a ship that is constructed or adapted to carry oil in bulk as cargo or
23 cargo residue. "Tank vessel" does not include:

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

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

26 (c) An oil spill response barge or vessel.

27 (30) "Worst case spill" means:

28 (a) In the case of a vessel, a spill of the entire cargo and fuel of the tank vessel complicated
29 by adverse weather conditions; and

30 (b) In the case of an onshore or offshore facility, the largest foreseeable spill in adverse weather
31 conditions.

32 **SECTION 2. The amendments to ORS 468B.300 by section 1 of this 2013 Act apply to the**
33 **entry of oil into the waters of the state on or after the effective date of this 2013 Act.**

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