

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 2233**

1 On page 1 of the printed A-engrossed bill, delete lines 8 through 23.

2 On page 2, delete lines 1 through 19 and insert:

3 **“SECTION 2. Definitions. As used in sections 2 to 12 of this 2013**
4 **Act:**

5 **“(1) ‘Abandoned vessel’ means a vessel that has been left without**
6 **authorization on public or private land, the waters of this state, or any**
7 **other water.**

8 **“(2) ‘Business day’ means any day other than a Saturday, a Sunday**
9 **or a legal holiday as described in ORS 187.010.**

10 **“(3) ‘Derelict vessel’ means a vessel that is on the waters of this**
11 **state and that is:**

12 **“(a) Sunk or in imminent danger of sinking;**

13 **“(b) Obstructing a waterway;**

14 **“(c) Endangering life or property; or**

15 **“(d) In such dilapidated condition that it is in danger of becoming**
16 **a significant environmental hazard as evidenced by repeated and doc-**
17 **umented instances of leaking fuel, sewage or other pollutants.**

18 **“(4) ‘Enforcement agency’ means a law enforcement agency, a fed-**
19 **eral agency, the State Marine Board or any other public body, as de-**
20 **efined in ORS 174.109, that has responsibility for land or water on which**
21 **an abandoned vessel or a derelict vessel is located.**

22 **“(5) ‘Owner’ means a person who has a property interest in a vessel.**

1 “(6)(a) ‘Vessel’ means a boat, a boathouse as defined in ORS 830.700,
2 a floating home as defined in ORS 830.700, or any other floating
3 structure that is normally secured to a pier or pilings.

4 “(b) ‘Vessel’ does not include a dock as defined in ORS 307.120.

5 “SECTION 3. Authority to seize abandoned vessel or derelict vessel.

6 (1) An enforcement agency may seize a vessel as an abandoned vessel
7 if:

8 “(a) The enforcement agency has probable cause to believe the
9 vessel is an abandoned vessel; and

10 “(b) An owner does not move the vessel to a place where the vessel
11 can be lawfully kept within the time specified in the notice given un-
12 der section 4 of this 2013 Act, or within such additional time as may
13 be specified in an order issued under section 7 (6) of this 2013 Act.

14 “(2) An enforcement agency may seize a vessel as a derelict vessel
15 if:

16 “(a) The State Marine Director, or other person designated by the
17 State Marine Director, has probable cause to believe the vessel is a
18 derelict vessel, the director or designated person documented the facts
19 supporting that belief as required by subsection (3) of this section, and
20 the director or designated person has notified the enforcement agency
21 that the vessel is subject to seizure; and

22 “(b) The owner does not correct the problems identified in the no-
23 tice given under section 4 of this 2013 Act within the time specified in
24 the notice, or within such additional time as may be specified in an
25 order issued under section 7 (6) of this 2013 Act.

26 “(3) A vessel may be seized as a derelict vessel by reason of an im-
27 mminent danger of sinking only if the State Marine Director, or other
28 person designated by the State Marine Director, has documented the
29 facts supporting the belief that the vessel is in imminent danger of
30 sinking.

1 **“(4) If an enforcement agency has probable cause to believe a vessel**
2 **is an abandoned vessel or a derelict vessel, the enforcement agency**
3 **may:**

4 **“(a) Secure the vessel in such a manner as to prevent harm to life**
5 **or damage to property or to prevent the vessel from becoming a hazard**
6 **to navigation.**

7 **“(b) Take action to mitigate any imminent environmental threat**
8 **the vessel poses.**

9 **“(c) Salvage, tow and store the vessel.**

10 **“(5) If an enforcement agency has probable cause to believe a vessel**
11 **is an abandoned vessel, the enforcement agency may enter and inspect**
12 **the interior of the vessel, and objects in plain view within the interior**
13 **of the vessel, only to the extent necessary to identify the owners of**
14 **the vessel.**

15 **“(6) If an enforcement agency has probable cause to believe a vessel**
16 **is a derelict vessel by reason of endangering life or property, or by**
17 **reason of being in danger of becoming an environmental hazard, the**
18 **enforcement agency may enter and inspect the interior of the vessel,**
19 **objects in plain view within the interior of the vessel, and closed**
20 **compartments within the interior of the vessel, only to the extent**
21 **necessary to determine whether the vessel endangers life or property,**
22 **or is in danger of becoming an environmental hazard.**

23 **“(7) An Oregon State Police officer, a sheriff, a deputy sheriff or a**
24 **municipal police officer may enter privately owned land for the pur-**
25 **pose of determining whether a vessel is abandoned only with the con-**
26 **sent of the landowner.”.**

27 In line 21, delete “seven days” and insert “10 business days”.

28 In line 45, delete “prosecuted for the crime of” and insert “cited for”.

29 On page 3, line 10, delete “prosecuted for the crime of” and insert “cited
30 for”.

1 Delete lines 13 through 24 and insert:

2 “(5) An owner of a vessel may request a hearing before an enforcement
3 agency seizes a vessel under sections 2 to 12 of this 2013 Act by submitting
4 a request for hearing to the enforcement agency not more than 10 business
5 days after the notice required by this section is given. The request must in-
6 dicate if the owner contends that the vessel is not abandoned or derelict, or
7 indicate such other specific grounds on which seizure of the vessel is chal-
8 lenged.

9 **“SECTION 5. Seizure without notice. (1) Nothing in sections 2 to**
10 **12 of this 2013 Act affects the ability of an enforcement agency to im-**
11 **mediately seize without notice a vessel that presents a hazard to nav-**
12 **igation or an imminent threat to public health or safety.**

13 **“(2) If an enforcement agency seizes without notice a vessel that**
14 **presents a hazard to navigation or an imminent threat to public health**
15 **or safety, and the enforcement agency wishes to dispose of the vessel**
16 **under sections 2 to 12 of this 2013 Act, the enforcement agency shall**
17 **provide notice as described in section 6 of this 2013 Act.”.**

18 Delete lines 42 through 45 and insert:

19 “(2) The notice required under this section must include the date by
20 which the costs of salvage, towing and storage must be paid to avoid title
21 to the vessel vesting in the enforcement agency. The date may not be less
22 than 30 days after the date on which the vessel was seized.”.

23 On page 4, delete lines 1 through 3.

24 In line 23, delete “seven”.

25 In line 24, delete “days” and insert “10 business days”.

26 In line 36, after “seven” insert “business”.

27 On page 5, after line 2, insert:

28 “(6) If the notice given under section 4 of this 2013 Act indicates that the
29 enforcement agency proposes to seize a vessel by reason of being an aban-
30 doned vessel, and the owner of a vessel requests a pre seizure hearing under

1 section 4 (5) of this 2013 Act, the owner may present a plan of action for
2 moving the vessel to a place where the vessel can be lawfully kept. If the
3 notice given under section 4 of this 2013 Act indicates that the enforcement
4 agency proposes to seize a vessel by reason of being a derelict vessel, and
5 the owner of a vessel requests a pre-seizure hearing under section 4 (5) of this
6 2013 Act, the owner may present a plan of action for remedying the problems
7 identified in the notice. If the hearing officer approves the plan of action,
8 the hearing officer by order may establish a time for moving the vessel, or
9 remedying the problems, that is later than the time specified in the notice.
10 If the hearing officer issues an order under this subsection, and the owner
11 fails to move the vessel, or to remedy the problems, within the time allowed,
12 the enforcement agency may seize the vessel and take such other action au-
13 thorized under sections 2 to 12 of this 2013 Act without further notice to the
14 owner or opportunity for hearing except:

15 “(a) Giving post-seizure notice under section 6 of this 2013 Act; and

16 “(b) If the owner requests a hearing under section 4 (5) of this 2013 Act,
17 allowing the owner to challenge the reasonableness of salvage, towing or
18 storage costs as provided under section 6 (5) of this 2013 Act.”.

19 In line 3, delete “(6)” and insert “(7)”.

20 In line 4, delete “section” and insert “2013 Act”.

21 In line 8, delete “(7)” and insert “(8)”.

22 In line 12, delete “(8)” and insert “(9)”.

23 In line 15, delete “(9)” and insert “(10)”.

24 In line 17, delete “(10)” and insert “(11)” and delete “hearings” and insert
25 “hearing”.

26 In line 20, delete “(11)” and insert “(12)”.

27 In line 29, delete “(11)” and insert “(12)”.

28 In line 33, after “(3)” insert “Except for costs of reclaiming a vessel under
29 section 9 (1) of this 2013 Act,”.

30 On page 6, delete lines 2 through 6 and insert:

1 **NOTE:** Section 10 was deleted by amendment. Subsequent sections were
2 not renumbered.”.

3 In line 13, after “notice” insert “, or within the time allowed under an
4 order issued under section 7 (6) of this 2013 Act”.

5 In line 17, after “notice” insert “, or within the time allowed under an
6 order issued under section 7 (6) of this 2013 Act”.

7 On page 7, line 45, delete “1 to 12” and insert “2 to 12”.

8 On page 8, delete lines 3 through 25 and insert:

9 **SECTION 17.** ORS 830.990 is amended to read:

10 “830.990. (1)(a) Violation of ORS 830.565 by a person operating a manually
11 propelled boat is a Class D violation. Notwithstanding ORS 153.019, the
12 presumptive fine for a violation of ORS 830.565 is \$30.

13 “(b) Violation of ORS 830.565 by a person operating a motorboat is
14 punishable as a Class D violation. Notwithstanding ORS 153.019, the
15 presumptive fine for a violation of ORS 830.565 is \$50.

16 “(2) A person who violates ORS 830.050, 830.088, 830.090, 830.092, 830.094,
17 830.230, 830.415, 830.710, 830.720, 830.770, 830.780, 830.810, 830.850 or 830.855,
18 or rules adopted to carry out the purposes of those statutes, commits a Class
19 D violation.

20 “(3) A person who violates ORS 830.220, 830.240, 830.245, 830.250, 830.375,
21 830.475 (4), 830.480, 830.785, 830.805 or 830.825, or rules adopted to carry out
22 the purposes of those statutes, commits a Class C violation.

23 “(4) A person who violates ORS 830.110, 830.175, 830.180, 830.185, 830.195,
24 830.210, 830.215, 830.225, 830.235, 830.260, 830.300, 830.315 (2) and (3), 830.335,
25 830.340, 830.345, 830.350, 830.355, 830.360, 830.362, 830.365, 830.370, 830.410,
26 830.420, 830.495, 830.560, 830.775, 830.795 or 830.830, or rules adopted to carry
27 out the purposes of those statutes, commits a Class B violation.

28 “(5) A person who violates ORS 830.305 or 830.390, or rules adopted to
29 carry out the purposes of those statutes, commits a Class A violation.

30 “(6) A person who violates ORS 830.383 or 830.909 commits a Class B

1 misdemeanor.

2 “(7) A person who violates ORS 830.035 (2), 830.053, 830.315 (1), 830.325,
3 830.475 (1), 830.730 or 830.955 (1) commits a Class A misdemeanor.

4 “(8) A person who violates ORS 830.475 (2) commits a Class C felony.

5 “(9) **A person who violates section 12 of this 2013 Act commits a**
6 **Class A violation.**”.

7 Delete lines 32 through 45 and delete pages 9 through 11.

8 On page 12, delete lines 1 through 21 and insert:

9 “**SECTION 19.** ORS 466.605 is amended to read:

10 “466.605. As used in ORS 466.605 to 466.680 and 466.990 (3) and (4):

11 “(1) ‘Barrel’ means 42 U.S. gallons at 60 degrees Fahrenheit.

12 “(2) ‘Cleanup’ means the containment, collection, removal, treatment or
13 disposal of oil or hazardous material; site restoration; and any investigations,
14 monitoring, surveys, testing and other information gathering required or
15 conducted by the Department of Environmental Quality.

16 “(3) ‘Cleanup costs’ means all costs associated with the cleanup of a spill
17 or release incurred by the state, its political subdivision or any person with
18 written approval from the department when implementing ORS 466.205,
19 466.605 to 466.680, 466.990 (3) and (4) and 466.995 (2) or 468B.320.

20 “(4) ‘Commission’ means the Environmental Quality Commission.

21 “(5) ‘Department’ means the Department of Environmental Quality.

22 “(6) ‘Director’ means the Director of the Department of Environmental
23 Quality.

24 “(7) ‘Hazardous material’ means one of the following:

25 “(a) A material designated by the commission under ORS 466.630.

26 “(b) Hazardous waste as defined in ORS 466.005.

27 “(c) Radioactive waste as defined in ORS 469.300, radioactive material
28 identified by the Energy Facility Siting Council under ORS 469.605 and ra-
29 dioactive substances as defined in ORS 453.005.

30 “(d) Communicable disease agents as regulated by the Oregon Health

1 Authority under ORS 431.035 to 431.530, 433.001 to 433.045 and 433.110 to
2 433.770.

3 “(e) Hazardous substances designated by the United States Environmental
4 Protection Agency under section 311 of the Federal Water Pollution Control
5 Act, P.L. 92-500, as amended.

6 “(8) ‘Oils’ or ‘oil’ includes gasoline, crude oil, fuel oil, diesel oil, lubri-
7 cating oil, sludge, oil refuse and any other petroleum related product.

8 “(9) ‘Person’ means an individual, trust, firm, joint stock company, cor-
9 poration, partnership, association, municipal corporation, political subdivi-
10 sion, interstate body, the state and any agency or commission thereof and
11 the federal government and any agency thereof.

12 “(10) ‘Reportable quantity’ means one of the following:

13 “(a) A quantity designated by the commission under ORS 466.625.

14 “(b) The lesser of:

15 “(A) The quantity designated for hazardous substances by the United
16 States Environmental Protection Agency pursuant to section 311 of the
17 Federal Water Pollution Control Act, P.L. 92-500, as amended;

18 “(B) The quantity designated for hazardous waste under ORS 466.005 to
19 466.385, 466.990 (1) and (2) and 466.992;

20 “(C) Any quantity of radioactive material, radioactive substance or ra-
21 dioactive waste;

22 “(D) If spilled into waters of the state, or escape into waters of the state
23 is likely, any quantity of oil that would produce a visible oily slick, oily
24 solids, or coat aquatic life, habitat or property with oil, but excluding normal
25 discharges from properly operating marine engines; or

26 “(E) If spilled on land, any quantity of oil over one barrel.

27 “(c) Ten pounds unless otherwise designated by the commission under
28 ORS 466.625.

29 “(11) ‘Respond’ or ‘response’ means:

30 “(a) Actions taken to monitor, assess and evaluate a spill or release or

1 threatened spill or release of oil or hazardous material;

2 “(b) First aid, rescue or medical services, and fire suppression; or

3 “(c) Containment or other actions appropriate to prevent, minimize or
4 mitigate damage to the public health, safety, welfare or the environment
5 which may result from a spill or release or threatened spill or release if
6 action is not taken.

7 “(12) ‘Spill or release’ means the discharge, deposit, injection, dumping,
8 spilling, emitting, releasing, leaking or placing of any oil or hazardous ma-
9 terial into the air or into or on any land or waters of the state, as defined
10 in ORS 468B.005, except as authorized by a permit issued under ORS chapter
11 454, 459, 459A, 468, 468A, 468B or 469, ORS 466.005 to 466.385, 466.990 (1) and
12 (2) or 466.992 or federal law or while being stored or used for its intended
13 purpose.

14 “[*(13) ‘Threatened spill or release’ means oil or hazardous material is likely*
15 *to escape or be carried into the air or into or on any land or waters of the*
16 *state.*]

17 **“(13) ‘Threatened spill or release’ means oil or hazardous material**
18 **is likely to escape or be carried into the air or into or on any land or**
19 **waters of the state, including from a ship as defined in ORS 468B.300**
20 **that is in imminent danger of sinking.**

21 **“SECTION 20.** ORS 468B.300 is amended to read:

22 “468B.300. As used in ORS 468.020, 468.095, 468.140 (3) and 468B.300 to
23 468B.500:

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

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

30 “(3) ‘Commercial fish harvesting’ means taking food fish with any gear

1 unlawful for angling under ORS 506.006, or taking food fish in excess of the
2 limits permitted for personal use, or taking food fish with the intent of dis-
3 posing of such food fish or parts thereof for profit, or by sale, barter or trade,
4 in commercial channels.

5 “(4) ‘Contingency plan’ means an oil spill prevention and emergency re-
6 sponse plan required under ORS 468B.345.

7 “(5) ‘Covered vessel’ means a tank vessel, cargo vessel, passenger vessel
8 or dredge vessel.

9 “(6) ‘Damages’ includes damages, costs, losses, penalties or attorney fees
10 of any kind for which liability may exist under the laws of this state re-
11 sulting from, arising out of or related to the discharge or threatened dis-
12 charge of oil.

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

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

19 “(9) ‘Exploration facility’ means a platform, vessel or other offshore fa-
20 cility used to explore for oil in the navigable waters of the state. ‘Explora-
21 tion facility’ does not include platforms or vessels used for stratigraphic
22 drilling or other operations that are not authorized or intended to drill to
23 a producing formation.

24 “(10) ‘Facility’ means a pipeline or any structure, group of structures,
25 equipment or device, other than a vessel located on or near navigable waters
26 of a state, that is used for producing, storing, handling, transferring, pro-
27 cessing or transporting oil in bulk and that is capable of storing or trans-
28 porting 10,000 or more gallons of oil. ‘Facility’ does not include:

29 “(a) A railroad car, motor vehicle or other rolling stock while transport-
30 ing oil over the highways or rail lines of this state;

1 “(b) An underground storage tank regulated by the Department of Envi-
2 ronmental Quality or a local government under ORS 466.706 to 466.882 and
3 466.994; or

4 “(c) Any structure, group of structures, equipment or device, other than
5 a vessel located on or near navigable waters of a state, that is used for
6 producing, storing, handling, transferring, processing or transporting oil in
7 bulk and that is capable of storing or transporting 10,000 or more gallons
8 of oil but does not receive oil from tank vessels, barges or pipelines.

9 “(11) ‘Federal on-scene coordinator’ means the federal official predesig-
10 nated by the United States Environmental Protection Agency or the United
11 States Coast Guard to coordinate and direct federal responses or the official
12 designated by the lead agency to coordinate and direct removal under the
13 National Contingency Plan.

14 “(12) ‘Hazardous material’ has the meaning given that term in ORS
15 466.605.

16 “(13) ‘Maritime association’ means an association or cooperative of ma-
17 rine terminals, facilities, vessel owners, vessel operators, vessel agents or
18 other maritime industry groups, that provides oil spill response planning and
19 spill related communications services within the state.

20 “(14) ‘Maximum probable spill’ means the maximum probable spill for a
21 vessel operating in the navigable waters of the state considering the history
22 of spills of vessels of the same class operating on the west coast of the
23 United States.

24 “(15) ‘Navigable waters’ means the Columbia River, the Willamette River
25 up to Willamette Falls, the Pacific Ocean and estuaries to the head of
26 tidewater.

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

30 “(17) ‘Offshore facility’ means any facility located in, on or under any of

1 the navigable waters of the state.

2 “(18) ‘Oils’ or ‘oil’ means oil, including gasoline, crude oil, fuel oil, diesel
3 oil, lubricating oil, sludge, oil refuse and any other petroleum related prod-
4 uct and liquefied natural gas.

5 “(19) ‘Onshore facility’ means any facility located in, on or under any
6 land of the state, other than submerged land, that, because of its location,
7 could reasonably be expected to cause substantial harm to the environment
8 by discharging oil into or on the navigable waters of the state or adjoining
9 shorelines.

10 “(20) ‘Passenger vessel’ means a ship of 300 or more gross tons carrying
11 passengers for compensation.

12 “(21) ‘Person’ has the meaning given the term in ORS 468.005.

13 “(22) ‘Person having control over oil’ includes but is not limited to any
14 person using, storing or transporting oil immediately prior to entry of such
15 oil into the navigable waters of the state, and shall specifically include car-
16 riers and bailees of such oil.

17 “(23) ‘Pipeline’ means a facility, including piping, compressors, pump
18 stations and storage tanks, used to transport oil between facilities or be-
19 tween facilities and tank vessels.

20 “(24) ‘Region of operation’ with respect to the holder of a contingency
21 plan means the area where the operations of the holder that require a con-
22 tingency plan are located.

23 “(25) ‘Removal costs’ means the costs of removal that are incurred after
24 a discharge of oil has occurred or, in any case in which there is a substantial
25 threat of a discharge of oil, the costs to prevent, minimize or mitigate oil
26 pollution from the incident.

27 “(26) ‘Responsible party’ has the meaning given under section 1001 of the
28 Oil Pollution Act of 1990 (P.L. 101-380).

29 “(27) ‘Ship’ means any boat, ship, vessel, barge or other floating craft of
30 any kind.

1 “(28)(a) ‘State on-scene coordinator’ means the state official appointed by
2 the Department of Environmental Quality to represent the department and
3 the State of Oregon in response to an oil or hazardous material spill or re-
4 lease or threatened spill or release and to coordinate cleanup response with
5 state and local agencies.

6 “(b) For purposes of this subsection:

7 “(A) ‘Spill or release’ means the discharge, deposit, injection, dumping,
8 spilling, emitting, releasing, leaking or placing of any oil or hazardous ma-
9 terial into the air or into or on any land or waters of this state except as
10 authorized by a permit issued under ORS chapter 454, 459, 459A, 468, 468A,
11 468B or 469 or ORS 466.005 to 466.385, 466.990 (1) and (2) or 466.992 or federal
12 law, or except when being stored or used for its intended purpose.

13 “[*(B) ‘Threatened spill or release’ means that oil or hazardous material is*
14 *likely to escape or be carried into the air or into or on any land or waters of*
15 *this state.*]

16 “**(B) ‘Threatened spill or release’ means oil or hazardous material**
17 **is likely to escape or be carried into the air or into or on any land or**
18 **waters of the state, including from a ship as defined in this section**
19 **that is in imminent danger of sinking.**

20 “(29) ‘Tank vessel’ means a ship that is constructed or adapted to carry
21 oil in bulk as cargo or cargo residue. ‘Tank vessel’ does not include:

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

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

24 “(c) An oil spill response barge or vessel.

25 “(30) ‘Worst case spill’ means:

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

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

30 “**SECTION 21.** ORS 468B.325 is amended to read:

1 “468B.325. (1) The Director of the Department of Environmental Quality
2 shall have the power to enter upon any public or private property,
3 premises, **ship** or place for the purpose of **investigating**, controlling, col-
4 lecting, removing, treating, containing or dispersing **a spill or release or**
5 **threatened spill or release of oil or hazardous material** [*which reason-*
6 *ably appears to the director to threaten imminent and unlawful entry into the*
7 *waters of the state, when the person responsible for an oil spill or an owner*
8 *of property on which oil has been spilled fails to act to restrain or to remove*
9 *the oil*].

10 “(2) **The director may enter upon a ship under this section based**
11 **on a threatened spill or release of oil or hazardous material only if the**
12 **director has documented facts supporting the director’s belief that the**
13 **ship represents a threat for the spill or release of oil or hazardous**
14 **material.**

15 “[2] (3) Damages, other than those caused by the **spill or release or**
16 **threatened spill or release of oil** [*spill*] **or hazardous material**, suffered
17 from the actions of the director pursuant to subsection (1) of this section
18 [*shall be*] **are** the responsibility of the state.”.

19
