

HB 2131-3  
(LC 2255)  
4/7/17 (MAM/ps)

Requested by Representative JOHNSON

**PROPOSED AMENDMENTS TO  
HOUSE BILL 2131**

1 On page 1 of the printed bill, line 2, after “materials;” delete the rest of  
2 the line and delete line 3 and insert: “amending ORS 453.392 and 453.394.”.

3 Delete lines 5 through 24 and delete pages 2 through 12 and insert:

4 **“SECTION 1.** ORS 453.392 is amended to read:

5 “453.392. (1) As part of the plan for the effective implementation of a  
6 statewide hazardous material emergency response system established by rule  
7 under ORS 453.374, the State Fire Marshal shall adopt by rule a plan for the  
8 coordinated response to oil or hazardous material spills or releases that oc-  
9 cur during rail transport. The plan adopted under this subsection:

10 “(a) Shall address with a specific focus on oil or hazardous material spills  
11 or releases that occur during rail transport all required provisions under  
12 ORS 453.374;

13 “(b) May include requirements and incentives for local governments and  
14 other responders to participate in ongoing training programs;

15 “(c) Shall provide a system for identifying where **oil or** hazardous mate-  
16 rial **spill or release** response materials owned by railroads are located  
17 throughout this state and how access to those materials is to be coordinated;

18 [*and*]

19 **“(d) Shall include annual statewide training exercises and tabletop**  
20 **exercises that include the Department of Environmental Quality, the**  
21 **Office of Emergency Management, state and local responders, feder-**

1 **ally recognized Oregon Indian tribes and railroads that operate in this**  
2 **state;**

3 **“(e) Shall provide for the implementation of a full scale, multia-**  
4 **gency, multijurisdictional and multidisciplinary oil or hazardous ma-**  
5 **terial spill or release training exercise that:**

6 **“(A) Involves training for all manner of personnel necessary to a**  
7 **coordinated response to an oil or hazardous material spill or release;**

8 **“(B) Is intended to examine or validate the planning, coordination**  
9 **and command and control decisions that may be made in the event**  
10 **of an oil or hazardous material spill or release and to also examine or**  
11 **validate response specific capabilities or functions; and**

12 **“(C) Involves training that covers the entire sequence of events that**  
13 **take place during an oil or hazardous material spill or release incident**  
14 **that occurs during rail transport; and**

15 **“[(d)] (f) May include any other information deemed necessary by the of-**  
16 **fice of the State Fire Marshal to provide coordinated response to oil or**  
17 **hazardous material spills or releases that occur during rail transport.**

18 **“(2)(a) In order to develop the plan required under subsection (1)**  
19 **of this section, the State Fire Marshal may request only the following**  
20 **information from a railroad operating in Oregon:**

21 **“(A) The names, addresses, phone numbers, fax numbers and elec-**  
22 **tronic mail addresses for the primary owner of the railroad and for the**  
23 **local primary contacts for the railroad;**

24 **“(B) A list of the contacts for the railroad that are available 24**  
25 **hours each day to respond to threatened or actual oil or hazardous**  
26 **material spills or releases;**

27 **“(C) The area of transit of the railroad;**

28 **“(D) The spill mitigation measures that are used by the railroad;**

29 **“(E) The procedures that the railroad has in place for notification**  
30 **in the event of an oil or hazardous material spill or release;**

1       **“(F) The personnel that the railroad will have at its disposal, as**  
2 **evidenced by documentation that may include letters of intent with**  
3 **contractors, for spill response activities in the event of an oil or haz-**  
4 **ardous material spill or release;**

5       **“(G) The response materials available for oil or hazardous material**  
6 **spills or releases that are owned by the railroad and available for use**  
7 **in this state, and the location of the response materials;**

8       **“(H) The types of responder training that are provided by the rail-**  
9 **road and the frequency at which the responder training activities oc-**  
10 **cur; and**

11       **“(I) Proof of financial responsibility from the railroad for the costs**  
12 **associated with an oil or hazardous material spill or release.**

13       **“(b) The State Fire Marshal may make the information received**  
14 **from railroads under this subsection available only to the Department**  
15 **of Environmental Quality, the Office of Emergency Management, state**  
16 **and local responders and federally recognized Oregon Indian tribes.**

17       **“(c) All information provided to the State Fire Marshal by a rail-**  
18 **road under this subsection, which may include information constitut-**  
19 **ing security sensitive information provided for under 49 U.S.C.**  
20 **11904(b), 49 C.F.R. 15 and 49 C.F.R. 1520 or information otherwise pro-**  
21 **TECTED under federal law, is confidential, exempt from disclosure under**  
22 **public records law, and may not be disclosed to any person or entity**  
23 **not listed in paragraph (b) of this subsection. No subpoena or judicial**  
24 **order may be issued compelling the disclosure of information provided**  
25 **under this section, except when relevant to a proceeding where com-**  
26 **pliance by a railroad with this section is to be adjudicated.**

27       **“[(2)] (3) The office of the State Fire Marshal shall annually coordinate**  
28 **with local governments, other state agencies involved in hazardous material**  
29 **emergency response, other responders and representatives of the railroad in-**  
30 **dustry to prepare a report on the coordinated response plan adopted under**

1 this section and shall:

2 “(a) Make the report available as an appendix to the Office of Emergency  
3 Management’s oil and hazardous material response emergency operations  
4 plan developed pursuant to ORS 401.092; and

5 “(b) No later than February 1 of each year, submit the report to the  
6 Legislative Assembly in the manner provided in ORS 192.245.

7 “[~~(3)~~] (4) The report required by subsection [~~(2)~~] (3) of this section shall  
8 include, but need not be limited to, the following in relation to oil and haz-  
9 ardous material emergency response for rail transport:

10 “(a) An inventory of all emergency response resources available in this  
11 state, including information on:

12 “(A) The location of, and the means of access to, the resources;

13 “(B) Whether the resources are publicly or privately maintained; and

14 “(C) Additional resources that are needed to provide for adequate re-  
15 sponse;

16 “(b) Suggested changes to the structure for the continued coordination  
17 between state agencies and industry;

18 “(c) Possible revisions to the response roles or responsibilities of state  
19 agencies, local governments and railroads; and

20 “(d) Strategies for ensuring adequate funding at the state and local gov-  
21 ernment levels to cover the training, equipment and administrative costs  
22 associated with providing comprehensive response and equipment.

23 **“SECTION 2.** ORS 453.394 is amended to read:

24 “453.394. (1) The Oil and Hazardous Material Transportation by Rail  
25 Action Fund is established in the State Treasury, separate and distinct from  
26 the General Fund. The Oil and Hazardous Material Transportation by Rail  
27 Action Fund shall consist of all moneys placed in the fund as provided by  
28 law and any gifts, grants, donations, endowments or bequests from any public  
29 or private source. Interest earned by the fund shall be credited to the fund.

30 “(2) All moneys in the fund are continuously appropriated to the Depart-

1 ment of State Police for use by the office of the State Fire Marshal only  
2 for:

3 **“(a) The payment of costs associated with the development and effective**  
4 **implementation of the plan adopted under ORS 453.392 for the coordinated**  
5 **response to oil or hazardous material spills or releases that occur during rail**  
6 **transport[.]; and**

7 **“(b) The payment of expenses of the Department of Environmental**  
8 **Quality incurred in coordinating with the State Fire Marshal to:**

9 **“(A) Develop geographic response plans specific to oil and hazard-**  
10 **ous material emergency response for rail transport; and**

11 **“(B) Provide environmental testing after oil or hazardous material**  
12 **spills or releases that occur during rail transport, including but not**  
13 **limited to air, water and soil analysis.”.**

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