

Requested by Representative JOHNSON

**PROPOSED AMENDMENTS TO
HOUSE BILL 2131**

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

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

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

6 “453.392. (1) As part of the plan for the effective implementation of a
7 statewide hazardous material emergency response system established by rule
8 under ORS 453.374, the State Fire Marshal shall, **in consultation with the**
9 **Department of Environmental Quality**, adopt by rule a plan for the co-
10 ordinated response to oil or hazardous material spills or releases that occur
11 during rail transport. The plan adopted under this subsection:

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

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

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

21 **“(d) Shall include annual statewide training exercises and tabletop**

1 **exercises that include the Department of Environmental Quality, the**
2 **Office of Emergency Management, state and local responders, feder-**
3 **ally recognized Oregon Indian tribes and railroads that operate in this**
4 **state;**

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

8 **“(A) Examines or validates training for all manner of personnel**
9 **necessary to a coordinated response to an oil or hazardous material**
10 **spill or release;**

11 **“(B) Is intended to examine or validate the planning, coordination**
12 **and command and control decisions made by the various agencies and**
13 **to examine or validate response specific capabilities or functions; and**

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

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

20 **“(2)(a) In order to develop the plan required under subsection (1)**
21 **of this section, the office of the State Fire Marshal may request in-**
22 **formation from a railroad operating in Oregon that includes, but need**
23 **not be limited to:**

24 **“(A) The names, addresses, phone numbers, facsimile numbers and**
25 **electronic mail addresses for the primary owner of the railroad and for**
26 **the local primary contacts for the railroad;**

27 **“(B) The contacts for the railroad that are available 24 hours each**
28 **day to respond to threatened or actual oil or hazardous material spills**
29 **or releases;**

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

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

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

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

8 **“(G) The response resources available for oil or hazardous material**
9 **spills or releases that are owned by the railroad and available for use**
10 **in this state, and the location of the response resources;**

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

14 **“(I) Proof of financial responsibility from the railroad for the costs**
15 **associated with an oil or hazardous material spill or release, which**
16 **may be satisfied by submitting to the office of the State Fire Marshal**
17 **a copy of the Form R-1 Railroad Annual Report required by the United**
18 **States Surface Transportation Board.**

19 **“(b) The office of the State Fire Marshal may disclose the infor-**
20 **mation received from railroads under this subsection only to the De-**
21 **partment of Environmental Quality, the Office of Emergency**
22 **Management, state and local responders and federally recognized**
23 **Oregon Indian tribes.**

24 **“(c) All information provided to the office of the State Fire Marshal**
25 **by a railroad under this subsection or disclosed by the office of the**
26 **State Fire Marshal to a person as authorized in paragraph (b) of this**
27 **subsection, which may include information constituting sensitive se-**
28 **curity information provided for under 49 C.F.R. 15 and 49 C.F.R. 1520**
29 **or information otherwise protected under federal law, is confidential**
30 **and exempt from disclosure under public records law and may not be**

1 **disclosed to any person or entity not listed in paragraph (b) of this**
2 **subsection. No subpoena or judicial order may be issued compelling**
3 **the disclosure of information provided under this section, except when**
4 **relevant to a proceeding where compliance by a railroad with this**
5 **section is to be adjudicated.**

6 “[2] (3) The office of the State Fire Marshal shall annually coordinate
7 with local governments, other state agencies involved in hazardous material
8 emergency response, other responders and representatives of the railroad in-
9 dustry to prepare a report on the coordinated response plan adopted under
10 this section and shall:

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

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

16 “[3] (4) The report required by subsection [(2)] (3) of this section shall
17 include, but need not be limited to, the following in relation to oil and haz-
18 ardous material emergency response for rail transport:

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

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

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

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

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

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

29 “(d) Strategies for ensuring adequate funding at the state and local gov-
30 ernment levels to cover the training, equipment and administrative costs

1 associated with providing comprehensive response and equipment.

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

3 “453.394. (1) The Oil and Hazardous Material Transportation by Rail
4 Action Fund is established in the State Treasury, separate and distinct from
5 the General Fund. The Oil and Hazardous Material Transportation by Rail
6 Action Fund shall consist of all moneys placed in the fund as provided by
7 law and any gifts, grants, donations, endowments or bequests from any public
8 or private source. Interest earned by the fund shall be credited to the fund.

9 “(2) All moneys in the fund are continuously appropriated to the Depart-
10 ment of State Police for use by the office of the State Fire Marshal only
11 for:

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

16 “(b) **The payment of expenses of the Department of Environmental**
17 **Quality incurred in developing and implementing plan provisions un-**
18 **der section 4 of this 2017 Act.**

19 **“SECTION 3.** Section 4 of this 2017 Act is added to and made a part
20 of ORS 466.605 to 466.680.

21 **“SECTION 4.** (1) **The Department of Environmental Quality may**
22 **develop plan provisions to be incorporated into the plans required by**
23 **ORS 466.620 and 468B.495, as necessary, to specifically address oil and**
24 **hazardous material emergency response for oil or hazardous material**
25 **spills or releases that occur during rail transport. Notwithstanding**
26 **any contrary provision of ORS 468B.495, plan provisions developed un-**
27 **der this section may include, but need not be limited to, provisions for**
28 **responding to oil or hazardous material spills in inland areas.**

29 “(2) **Plan provisions developed under this section must be consistent**
30 **with the plan adopted by the State Fire Marshal by rule under ORS**

1 **453.392.**

2 **“(3) In developing plan provisions under this section, the depart-**
3 **ment shall work with the office of the State Fire Marshal, all other**
4 **affected local, state and federal agencies and any volunteer group in-**
5 **terested in participating in oil or hazardous material spill response.”.**

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