

HB 2209-9  
(LC 2729)  
3/27/19 (MAM/ps)

Requested by HOUSE COMMITTEE ON VETERANS AND EMERGENCY PREPAREDNESS (at the request of Representatives Mark Meek and Rick Lewis)

**PROPOSED AMENDMENTS TO  
HOUSE BILL 2209**

1 On page 7 of the printed bill, delete lines 5 through 7 and insert:  
2 “(A) An annual oil spill or release notification exercise;  
3 “(B) A triennial oil spill or release response tabletop exercise;  
4 “(C) A triennial oil spill or release response functional exercise; and  
5 “(D) A triennial oil spill containment and recovery equipment deployment  
6 exercise.”.

7 On page 10, after line 43, insert:

8  
9 **“FEES**

10  
11 **“SECTION 13a. (1) Subject to subsections (2) and (3) of this section,**  
12 **each Class I railroad that is required to submit a contingency plan for**  
13 **a high hazard train route under section 5 of this 2019 Act shall pay to**  
14 **the Department of Transportation in each year a fee equal to the**  
15 **amount that the Department of Environmental Quality finds and de-**  
16 **termines to be necessary to defray the costs of only those duties im-**  
17 **posed on the Department of Environmental Quality by law for which**  
18 **costs may be paid from the High Hazard Train Route Oil Spill**  
19 **Preparedness Fund established under section 14 of this 2019 Act.**

20 **“(2) In each calendar year, the percentage rate of the fee required**  
21 **to be paid shall be determined by orders entered by the Department**

1 of Transportation on or after March 1 of each year. The department  
2 shall provide notice of the order to each railroad. Each railroad shall  
3 pay to the Department of Transportation the fee or portion of the fee  
4 as computed pursuant to this subsection on a date, as specified in the  
5 notice, that is at least 15 days after the date of mailing the notice.

6 “(3) The total of the fees payable by railroads described in sub-  
7 section (1) of this section may not exceed five hundredths of one per-  
8 cent of the combined gross operating revenues derived within this  
9 state of all railroads described in subsection (1) of this section.

10 “(4) Payment of each fee or portion of the fee, verification of gross  
11 operating revenues by the railroad and any refunds of overpayment  
12 of the fee shall be made in the manner provided for and at the same  
13 time as payment of the fee required under ORS 824.010 and subject to  
14 ORS 824.012. Notwithstanding ORS 824.010 (1) and (4), the fee provided  
15 for in this section shall be in addition to all other fees paid or payable  
16 by railroads to the Department of Transportation.

17 “(5) Fees collected under this section shall be paid into the State  
18 Treasury and deposited in the High Hazard Train Route Oil Spill  
19 Preparedness Fund established under section 14 of this 2019 Act.

20 **“SECTION 13b.** As used in this section and section 13c of this 2019  
21 **Act:**

22 “(1) ‘Oil’ has the meaning given that term in ORS 468B.300 except  
23 that ‘oil’ does not mean gasoline or any other petroleum related  
24 product that has been processed such that it is capable of being used  
25 as a fuel for the propulsion of a motor vehicle.

26 “(2) ‘Owner’ means the person who has the ultimate control over,  
27 and the right to use or sell, oil being shipped.

28 “(3) ‘Person’ means an individual, trust, firm, joint stock company,  
29 corporation, partnership, joint venture, consortium, association, state,  
30 municipality, commission, political subdivision of a state or any

1 interstate body, any commercial entity and the federal government or  
2 any agency of the federal government.

3 “(4) ‘Tank railroad car’ means a loaded or unloaded railroad car or  
4 rolling stock designated to transport oil as part of a single train that  
5 transports:

6 “(a) 20 or more tank railroad cars in a continuous block that are  
7 loaded with oil; or

8 “(b) 35 or more tank railroad cars loaded with oil that are spread  
9 throughout the entirety of the rolling stock, not including the loco-  
10 motive, that make up the train.

11 “SECTION 13c. (1)(a) The owner of oil at the time the oil is trans-  
12 ported by loaded tank railroad car in this state shall pay to the De-  
13 partment of Revenue a fee not to exceed \$20 for each tank railroad car  
14 loaded with oil.

15 “(b) If the loaded tank railroad car enters this state from outside  
16 of this state, the fee shall be imposed on the owner of the oil at the  
17 time the loaded tank railroad car enters this state.

18 “(c) If the tank railroad car is loaded with oil in this state, the fee  
19 shall be imposed upon the loading of the oil into or onto the tank  
20 railroad car for transport in or through this state.

21 “(2) The Department of Environmental Quality and the office of the  
22 State Fire Marshal shall establish by rule the amount of the fee re-  
23 quired under this section as necessary to provide funding for programs  
24 authorized to be funded by moneys in the High Hazard Train Route  
25 Oil Spill Preparedness Fund established under section 14 of this 2019  
26 Act and the Oil and Hazardous Material Transportation by Rail Action  
27 Fund established under ORS 453.394.

28 “(3) Any oil that the Constitution or laws of the United States  
29 prohibit the state from taxing is exempt from the fee imposed under  
30 this section.

1       **“(4)(a) Each owner of oil transported by loaded tank railroad car**  
2 **shall remit payment of the fee established under this section on a**  
3 **quarterly basis.**

4       **“(b) Each owner of oil transported by loaded tank railroad car shall**  
5 **register with the Department of Revenue at least 30 days prior to the**  
6 **date that the owner’s oil is transported by loaded tank railroad car in**  
7 **this state.**

8       **“(c) Each owner of oil transported by loaded tank railroad car shall**  
9 **keep at the person’s registered place of business complete and accu-**  
10 **rate records of any petroleum products sold, purchased by, or brought**  
11 **in or caused to be brought in to the place of business.**

12       **“(d) The Department of Revenue, upon oral or written reasonable**  
13 **notice, may make such examinations of the books, papers, records and**  
14 **equipment required to be kept under this subsection as it may deem**  
15 **necessary in carrying out this section.**

16       **“(5) The Department of Revenue is authorized to establish those**  
17 **rules and procedures for the implementation and enforcement of this**  
18 **section that are consistent with this section’s provisions and are con-**  
19 **sidered necessary and appropriate.**

20       **“(6) The provisions of ORS chapters 305 and 314 as to liens, delin-**  
21 **quencies, claims for refund, issuance of refunds, conferences, appeals**  
22 **to the Oregon Tax Court, stay of collection pending appeal, cancella-**  
23 **tion, waiver, reduction or compromise of fees, penalties or interest,**  
24 **subpoenaing and examining witnesses and books and papers, and the**  
25 **issuance of warrants and the procedures relating thereto, shall apply**  
26 **to the collection of fees, penalties and interest by the Department of**  
27 **Revenue under this section, except where the context requires other-**  
28 **wise.**

29       **“(7) All moneys received by the Department of Revenue under this**  
30 **section shall be deposited in the State Treasury and credited to a**

1 **suspense account established under ORS 293.445. After payment of ad-**  
2 **ministration expenses incurred by the department in the adminis-**  
3 **tration of this section and of refunds or credits arising from erroneous**  
4 **overpayments, the balance of the money shall be transferred to the**  
5 **High Hazard Train Route Oil Spill Preparedness Fund established un-**  
6 **der section 14 of this 2019 Act and to the Oil and Hazardous Material**  
7 **Transportation by Rail Action Fund established under ORS 453.394, in**  
8 **the proportionate amounts that each agency found and determined to**  
9 **be necessary under subsection (2) of this section.**

10 **“SECTION 13d. (1) Sections 13a to 13c of this 2019 Act are repealed**  
11 **on January 2, 2027.**

12 **“(2) Any moneys remaining in the High Hazard Train Route Oil**  
13 **Spill Preparedness Fund established under section 14 of this 2019 Act**  
14 **and the Oil and Hazardous Material Transportation by Rail Action**  
15 **Fund established under ORS 453.394 on the date of the repeal specified**  
16 **in subsection (1) of this section that were collected pursuant to**  
17 **sections 13a to 13c of this 2019 Act that are unexpended, unobligated**  
18 **and not subject to any conditions shall be refunded to the payors**  
19 **without interest.”.**

20 On page 12, delete lines 35 through 45 and insert:

21 **“(d) Shall include a recurring, three-year training cycle of statewide**  
22 **training exercises that:**

23 **“(A) Commences with a triennial tabletop exercise that includes the De-**  
24 **partment of Environmental Quality, the Department of Transportation, the**  
25 **Office of Emergency Management, state and local responders, federally re-**  
26 **cognized Indian tribes in this state and railroads that operate in this state;**

27 **“(B) Includes, in the second year of the training cycle, a triennial state-**  
28 **wide functional exercise to test and evaluate response capabilities, functional**  
29 **groups, plans, incident command staff and emergency operations centers in**  
30 **their abilities to respond to an oil or a hazardous material spill or release**

1 that occurs during rail transport; and

2 “(C) Includes provisions for the planning, preparation and implementa-  
3 tion, in the third year of the training cycle, of a triennial full-scale, multia-  
4 gency, multijurisdictional and multidisciplinary oil or hazardous material  
5 spill or release training exercise that:

6 “(i) Involves training for all manner of personnel necessary for a coordi-  
7 nated response to an oil or a hazardous material spill or release;

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

12 “(iii) Involves training that covers the entire sequence of events that take  
13 place during an oil or hazardous material spill or release incident that oc-  
14 curs during rail transport; and”.

15 On page 13, delete lines 1 through 3.

16 In line 4, delete “(f)” and insert “(e)”.

17 Delete lines 29 through 40.

18 In line 44, delete “20” and insert “18”.

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