

House Bill 4105

Sponsored by Representative POWER, Senator GOLDEN, Representatives MARSH, NOSSE; Representatives ALONSO LEON, GORSEK, HELM, HOLVEY, LIVELY, SALINAS, SANCHEZ, WILLIAMS, Senator TAYLOR (Presession filed.)

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 **as introduced**.

Prohibits state agencies from authorizing construction of new infrastructure for exploration, development or production of oil or gas on state-owned real property or for transportation of oil or gas across state-owned real property.

Requires facilities unloading oil or gas received by rail to provide advance notice to Department of Transportation.

Prohibits facilities from loading or unloading oil or gas with vapor pressure of nine pounds per square inch or more. Delays operative date based on annual volume of oil and gas transported by rail.

Imposes maximum penalty of \$2,500 per day per railcar for facility violations.

Directs department to transmit information received from facilities to office of State Fire Marshal. Requires State Fire Marshal to consider information in developing oil and hazardous materials spill response plan.

A BILL FOR AN ACT

1
2 Relating to fossil fuels; creating new provisions; and amending ORS 453.392.

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

4 **SECTION 1. Section 2 of this 2020 Act is added to and made a part of ORS 270.100 to**
5 **270.190.**

6 **SECTION 2. (1) As used in this section:**

7 (a) "Development," "exploration," "gas" and "oil" have the meanings given those terms
8 in ORS 274.705.

9 (b) "Production" means any activity the principal purpose of which is to engage in,
10 monitor or conduct operations or maintenance related to the active extraction and trans-
11 portation of oil or gas.

12 (2) A state agency may not authorize, by lease, sale or otherwise, the construction of new
13 infrastructure on state-owned real property for:

14 (a) The exploration, development or production of oil or gas;

15 (b) The transportation of oil or gas across state-owned real property; or

16 (c) Activities in furtherance of the exploration, development or production of oil or gas
17 or the transportation of oil or gas across state-owned real property.

18 (3) This section does not prohibit the continued use or repair of existing infrastructure
19 on state-owned real property for the activities described in subsection (2) of this section and
20 does not impair or supersede any validly existing lease, conveyance, purchase agreement or
21 other legal instrument.

22 **SECTION 3. (1) A facility that unloads oil or gas, as defined in ORS 274.705, from a railcar**
23 **shall provide advance notice to the Department of Transportation. The notice required under**
24 **this subsection must:**

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 (a) Include the volume, type and vapor pressure of the oil or gas for each shipment
 2 scheduled to be received by the facility; and

3 (b) Be provided no later than 14 days prior to the arrival of oil or gas by rail at the fa-
 4 cility.

5 (2) The department shall timely deliver a copy of the notice received under subsection (1)
 6 of this section to the office of the State Fire Marshal.

7 (3) The Director of Transportation may impose a penalty not to exceed \$2,500 per day per
 8 railcar for violation of subsection (1) of this section.

9 (4) The department may adopt rules necessary to implement this section.

10 **SECTION 4.** Section 3 of this 2020 Act is amended to read:

11 **Sec. 3.** (1) A facility that unloads oil or gas, as defined in ORS 274.705, from a railcar shall
 12 provide advance notice to the Department of Transportation. The notice required under this sub-
 13 section must:

14 (a) Include the volume, type and vapor pressure of the oil or gas for each shipment scheduled
 15 to be received by the facility; and

16 (b) Be provided no later than 14 days prior to the arrival of oil or gas by rail at the facility.

17 (2) The department shall timely deliver a copy of the notice received under subsection (1) of this
 18 section to the office of the State Fire Marshal.

19 (3) **A facility may not load or unload oil or gas into or from a railcar unless the oil or
 20 gas has a vapor pressure of less than nine pounds per square inch.**

21 [(3)] (4) The Director of Transportation may impose a penalty not to exceed \$2,500 per day per
 22 railcar for violation of [subsection (1)] **subsection (1) or (3)** of this section.

23 [(4)] (5) The department may adopt rules necessary to implement this section.

24 **SECTION 5.** The Department of Transportation shall timely deliver notice to an appro-
 25 priate committee of the Legislative Assembly and the Legislative Counsel after the first
 26 calendar year in which the annual volume of oil and gas, as defined in ORS 274.705, trans-
 27 ported by rail in this state exceeds 105 percent of the volume that was transported in 2018.

28 **SECTION 6.** The amendments to section 3 of this 2020 Act by section 4 of this 2020 Act
 29 become operative on January 1 of the calendar year three years following the start of the
 30 calendar year for which the Department of Transportation provides notice under section 5
 31 of this 2020 Act.

32 **SECTION 7.** ORS 453.392 is amended to read:

33 453.392. (1) As part of the plan for the effective implementation of a statewide hazardous mate-
 34 rial emergency response system established by rule under ORS 453.374, the State Fire Marshal shall
 35 adopt by rule a plan for the coordinated response to oil or hazardous material spills or releases that
 36 occur during rail transport. The plan adopted under this subsection:

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

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

41 (c) Shall provide a system for identifying where hazardous material response resources owned
 42 by railroads are located throughout this state and how access to those resources is to be coordi-
 43 nated;

44 (d) Shall include a recurring, three-year training cycle of statewide training exercises that:

45 (A) Commences with a triennial tabletop exercise that includes the Department of Environ-

1 mental Quality, the Department of Transportation, the Office of Emergency Management, state and
 2 local responders, federally recognized Indian tribes in this state and railroads that operate in this
 3 state;

4 (B) Includes, in the second year of the training cycle, a triennial statewide functional exercise
 5 to test and evaluate response capabilities, functional groups, plans, incident command staff and
 6 emergency operations centers in their abilities to respond to an oil or a hazardous material spill or
 7 release that occurs during rail transport; and

8 (C) Includes provisions for the planning, preparation and implementation, in the third year of
 9 the training cycle, of a triennial full-scale, multiagency, multijurisdictional and multidisciplinary oil
 10 or hazardous material spill or release training exercise that:

11 (i) Involves training for all manner of personnel necessary for a coordinated response to an oil
 12 or a hazardous material spill or release;

13 (ii) Is intended to examine or validate the planning, coordination and command and control de-
 14 cisions that may be made in the event of an oil or hazardous material spill or release and to also
 15 examine or validate response-specific capabilities or functions; and

16 (iii) Involves training that covers the entire sequence of events that take place during an oil or
 17 hazardous material spill or release incident that occurs during rail transport; and

18 (e) Shall include any other information deemed necessary by the office of the State Fire Marshal
 19 to provide coordinated response to oil or hazardous material spills or releases that occur during rail
 20 transport, **including information received under section 3 (2) of this 2020 Act.**

21 (2) The office of the State Fire Marshal shall annually coordinate with local governments, other
 22 state agencies involved in hazardous material emergency response, other responders and represen-
 23 tatives of the railroad industry to prepare a report on the coordinated response plan adopted under
 24 this section and shall:

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

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

29 (3) The report required by subsection (2) of this section shall include, but need not be limited
 30 to, the following in relation to oil and hazardous material emergency response for rail transport:

31 (a) An inventory of all emergency response resources available in this state, including informa-
 32 tion on:

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

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

35 (C) Additional resources that are needed to provide for adequate response;

36 (b) Suggested changes to the structure for the continued coordination between state agencies
 37 and industry;

38 (c) Possible revisions to the response roles or responsibilities of state agencies, local govern-
 39 ments and railroads; and

40 (d) Strategies for ensuring adequate funding at the state and local government levels to cover
 41 the training, equipment and administrative costs associated with providing comprehensive response
 42 and equipment.