

House Bill 4169

Sponsored by COMMITTEE ON RULES (at the request of Representative Tina Kotek)

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**.

Lowers benchmark for excess lifetime cancer risk level for existing air contamination sources from 50 in one million to 25 in one million. Lowers Hazard Index number used for calculation of benchmark for excess noncancer risk for existing air contamination sources from 5 to 1.

Repeals statute limiting local community right to know regulatory programs.

Refers Act to people for their approval or rejection at next general election.

A BILL FOR AN ACT

1
2 Relating to hazardous substances; amending ORS 453.307, 468A.335, 468A.343 and 468A.345; repeal-
3 ing ORS 453.370 and sections 7, 8, 9 and 10, chapter 102, Oregon Laws 2018; and providing that
4 this Act shall be referred to the people for their approval or rejection.

5 Whereas toxic and hazardous substances, and toxic air contaminant emissions, are a public
6 health risk; and

7 Whereas exposure to toxic and hazardous substances and toxic air contaminant emissions in-
8 creases incidents of cancer, heart disease, respiratory disease and other illnesses and health condi-
9 tions; and

10 Whereas in order to protect the public health and safety, emissions of toxic air contaminants
11 should be limited; and

12 Whereas Oregonians should not be prevented from receiving information about the use, storage,
13 release, possession or composition of hazardous or toxic substances at industrial, manufacturing and
14 other facilities; now, therefore,

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

15 **SECTION 1.** ORS 468A.335 is amended to read:

16 468A.335. As used in ORS 468A.335 to 468A.343 [*and section 7, chapter 102, Oregon Laws 2018*]:

17 (1) "Benchmark for excess lifetime cancer risk" means:

18 (a) For a new or reconstructed air contamination source, an excess lifetime cancer risk level
19 of 10 in one million.

20 (b) For an existing air contamination source, an excess lifetime cancer risk level of [50] **25** in
21 one million.

22 (2) "Benchmark for excess noncancer risk" means:

23 (a) For a new or reconstructed air contamination source, a benchmark equal to a Hazard Index
24 number of 1.

25 (b) For an existing air contamination source, a benchmark equal to a Hazard Index number of
26 [5] **1**.

27 (3) "Hazard Index number" means a number equal to the sum of the hazard quotients attribut-
28 able to toxic air contaminants that have noncancer effects on the same target organs or organ sys-
29 tems.
30

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 (4) “Hazard quotient” means a calculated numerical value that is used to evaluate noncancer
 2 health risk from exposure to a single toxic air contaminant. The calculated numerical value is the
 3 ratio of the air concentration of a toxic air contaminant to the noncancer risk-based concentration
 4 at which no serious adverse human health effects are expected to occur.

5 (5) “Reconstructed” means an individual project constructed at an air contamination source
 6 that, once constructed, increases the hourly capacity of any changed equipment to emit and where
 7 the fixed capital cost of new components exceeds 50 percent of the fixed capital cost that would
 8 have been required to construct a comparable new source.

9 **SECTION 2. ORS 453.370 and sections 7, 8, 9 and 10, Chapter 102, Oregon Laws 2018, are**
 10 **repealed.**

11 **SECTION 3.** ORS 453.307 is amended to read:

12 453.307. As used in ORS 453.307 to 453.414:

13 [(1) “Community right to know regulatory program” or “local program” means any law, rule, or-
 14 dinance, regulation or charter amendment established, enforced or enacted by a local government that
 15 requires an employer to collect or report information relating to the use, storage, release, possession
 16 or composition of hazardous substances and toxic substances if a primary intent of the law, rule, or-
 17 dinance, regulation or charter amendment is the public distribution of the information.]

18 [(2)] (1) “Emergency service personnel” includes those entities providing emergency services as
 19 defined in ORS 401.025.

20 [(3)] (2) “Employer” means:

21 (a) Any person operating a facility that is included in one or more of the 21 standard industrial
 22 classification categories in Appendix B of the Natural Resources Defense Council v. Train Consent
 23 Decree of June 8, 1976 (8 E.R.C. 2120); or

24 (b) Any person operating a facility designated by the State Fire Marshal.

25 [(4)] (3) “Fire district” means any agency having responsibility for providing fire protection
 26 services.

27 [(5)] (4) “Hazardous substance” means:

28 (a) Any substance designated as hazardous by the Director of the Department of Consumer and
 29 Business Services or by the State Fire Marshal;

30 (b) Any substance for which a material safety data sheet is required by the Director of the De-
 31 partment of Consumer and Business Services under ORS 654.035 and which appears on the list of
 32 Threshold Limit Values for Chemical Substances and Physical Agents in the Work Environment by
 33 the American Conference of Governmental Industrial Hygienists; or

34 (c) Radioactive waste and material as defined in ORS 469.300 and radioactive substance as de-
 35 fined in ORS 453.005.

36 [(6)] (5) “Health professional” means a physician licensed under ORS chapter 677, naturopathic
 37 physician licensed under ORS chapter 685, physician assistant licensed under ORS 677.505 to
 38 677.525, registered nurse, industrial hygienist, toxicologist, epidemiologist or emergency medical
 39 services provider.

40 [(7)] (6) “Law enforcement agency” has the meaning given that term in ORS 181A.010.

41 [(8)] (7) “Local government” means a city, town, county, regional authority or other political
 42 subdivision of this state.

43 [(9)] (8) “Person” includes individuals, corporations, associations, firms, partnerships, joint stock
 44 companies, public and municipal corporations, political subdivisions, the state and any agency
 45 thereof, and the federal government and any agency thereof.

1 [(10)] (9) "Trade secret" has the meaning given that term in ORS 192.345 (2).

2 **SECTION 4.** ORS 468A.343 is amended to read:

3 468A.343. (1) The Department of Environmental Quality shall hold any public meeting required
 4 by rules adopted pursuant to ORS 468A.335 to 468A.343 [*and section 7, chapter 102, Oregon Laws*
 5 *2018*]. At least one representative of a person in control of an air contamination source for which
 6 a permit or plan will be discussed at a public meeting required by a rule adopted under ORS
 7 468A.335 to 468A.343 [*and section 7, chapter 102, Oregon Laws 2018,*] must appear at the meeting.

8 (2) If the Environmental Quality Commission adopts a program and rules pursuant to ORS
 9 468A.337 or a pilot program pursuant to ORS 468A.339, the programs and rules and their applica-
 10 bility to any air contamination source described in this section do not create a new standard of care
 11 or otherwise alter an existing standard of care for imposing liability in any private action.

12 **SECTION 5.** ORS 468A.345 is amended to read:

13 468A.345. (1) The fee schedules authorized under ORS 468.065 (2) for permits described in sub-
 14 section (2) of this section may include fees that are reasonably calculated to cover the direct and
 15 indirect costs of the Department of Environmental Quality and the Environmental Quality Commis-
 16 sion in developing and implementing, under ORS 468A.335 to 468A.343 [*and section 7, chapter 102,*
 17 *Oregon Laws 2018*], a program and rules described in ORS 468A.337 or a pilot program described in
 18 ORS 468A.339.

19 (2) The fees authorized by subsection (1) of this section shall:

20 (a) Apply for any class of air contamination sources classified pursuant to ORS 468A.050 for
 21 which a person is required to obtain a permit under ORS 468A.040 or 468A.155 or is subject to the
 22 federal operating permit program pursuant to ORS 468A.310; and

23 (b) Be in addition to, and not in lieu of, any other fee required under ORS 468.065 or 468A.315.

24 (3) Not more than once each calendar year, the Environmental Quality Commission may in-
 25 crease the fees authorized under this section. The amount of the annual increase may not exceed
 26 the anticipated increase in the cost of implementing ORS 468A.335 to 468A.343 [*and section 7,*
 27 *chapter 102, Oregon Laws 2018,*] or three percent, whichever is lower, unless a larger increase is
 28 provided for in the Department of Environmental Quality's legislatively approved budget.

29 (4)(a) Any rule adopted under ORS 468.065 (2) regarding late payment of emission fees by an air
 30 contamination source issued a permit under ORS 468A.040 or 468A.155 shall apply in the same
 31 manner to an air contamination source issued a permit under ORS 468A.040 or 468A.155 for late
 32 payment of fees under this section.

33 (b) Any rule adopted under ORS 468A.315 regarding late payment of emission fees by sources
 34 subject to the federal operating permit program shall apply in the same manner to sources subject
 35 to the federal operating permit program for late payment of fees under this section.

36 (5) The department may, in the manner provided in ORS 468.070, refuse to issue, suspend, revoke
 37 or refuse to renew a permit issued under ORS 468A.040 or 468A.155 or under the federal operating
 38 permit program pursuant to ORS 468A.310 for failure to comply with the provisions of this section.

39 **SECTION 6.** This 2020 Act shall be submitted to the people for their approval or rejection at
 40 the next regular general election held throughout this state.

41