

# Enrolled House Bill 3372

Sponsored by Representative KOTEK; Representatives CAMPOS, DEXTER, GRAYBER, HOLVEY,  
NOSSE, POWER

CHAPTER .....

AN ACT

Relating to environmental quality; creating new provisions; amending ORS 468.070, 468A.720 and  
468A.725; and prescribing an effective date.

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

**SECTION 1.** (1) The Department of Environmental Quality may require an applicant for a permit or license authorized or required by ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535 and 454.605 to 454.755 and ORS chapters 459, 459A, 465, 466, 468, 468A and 468B to provide the department with information reasonably sufficient for the department to evaluate the applicant's history of compliance with environmental quality laws during the 10-year period prior to the application date.

(2)(a) Information that an applicant may be required to provide under this section includes, but is not limited to:

(A) A list of the applicant's current corporate officers, managers, members of the board of directors, general partners or other persons who exercise substantial control on behalf of or over the applicant;

(B) A list of:

(i) Parent corporations, or similar business entities, that exercise substantial control over the applicant; and

(ii) Subsidiary corporations, or similar business entities, over which the applicant exercises substantial control; and

(C) Notices or other documents stating that a person has violated the provisions of ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535 and 454.605 to 454.755 and ORS chapters 459, 459A, 465, 466, 468, 468A and 468B, any rule or standard adopted under those statutes or any order or permit issued by the department or the Environmental Quality Commission.

(b) Information provided to the department under this section that has not previously been made publicly available is confidential and not subject to public disclosure under ORS 192.311 to 192.478.

**SECTION 2.** ORS 468.070 is amended to read:

468.070. (1) At any time, the Department of Environmental Quality may refuse to issue, modify, suspend, revoke or refuse to renew any permit issued pursuant to ORS 468.065 if it finds:

(a) A material misrepresentation or false statement in the application for the permit.

(b) Failure to comply with the conditions of the permit.

(c) Violation of any applicable provisions of [ORS 466.605 to 466.680, 466.990 (3) and (4) and 466.995 (2) or ORS chapters 468, 468A and 468B] **ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535 and 454.605 to 454.755 or ORS chapters 459, 459A, 465, 466, 468, 468A and 468B.**

(d) Violation of any applicable rule, standard or order of the Environmental Quality Commission.

(2) The department may modify any permit issued pursuant to ORS 468.065 if it finds that modification is necessary for the proper administration, implementation or enforcement of the provisions of ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755, 466.605 to 466.680 and ORS chapters 468, 468A and 468B.

**(3) In making a finding under subsection (1) of this section:**

**(a) The department may consider a violation committed by:**

**(A) The applicant or permittee;**

**(B) The applicant's or permittee's current corporate officers, managers, members of the board of directors, general partners or similar persons, provided that the person exercises or will exercise substantial control on behalf of or over the facility that is the subject of the application or permit;**

**(C) Parent corporations, or similar business entities, that exercise substantial control over the facility that is the subject of the application or permit; or**

**(D) Subsidiary corporations, or similar business entities, over which the applicant or permittee exercises substantial control.**

**(b) The department shall consider whether a violation:**

**(A) Was committed by a person that had a conscious objective to cause the result of the conduct and knew or had reason to know that the result of the conduct was not lawful; or**

**(B) Caused or had the potential to cause substantial environmental harm.**

**(c)(A) The department shall consider whether a violation was caused by a person that:**

**(i) Has a demonstrated practice of taking action to correct violations or minimize the effects of violations to avoid risk or harm;**

**(ii) Made efforts to ensure the violation would not be repeated;**

**(iii) Sought to resolve the violation through a mutual agreement and final order or a similar settlement agreement;**

**(iv) Disclosed the violation to the department upon its initial discovery; or**

**(v) Has been in compliance with any applicable rule, standard or order of the commission since the violation occurred.**

**(B) The department must consider mitigating factors or circumstances presented to the department by an applicant under this paragraph.**

**(4) A decision to refuse to issue, revoke or refuse to renew any permit under subsection (1) of this section is subject to the approval of the Director of the Department of Environmental Quality.**

[3] **(5) The procedure for modification, suspension, revocation or refusal to issue or renew shall be the procedure for a contested case as provided in ORS chapter 183.**

**SECTION 3.** ORS 468A.720 is amended to read:

**468A.720. (1) As used in this section, "related person" means:**

**(a) A contractor's current corporate officers, managers, members of the board of directors, general partners or other persons who exercise substantial control on behalf of or over a contractor;**

**(b) Parent corporations, or similar business entities, that exercise substantial control over the contractor; or**

**(c) Subsidiary corporations, or similar business entities, over which the contractor exercises substantial control.**

[1] **(2) The Department of Environmental Quality shall issue an asbestos abatement license to a contractor who:**

**(a) Successfully completes an accredited training course for contractors.**

(b) Requires each employee or agent of the contractor who works on or is directly responsible for an asbestos abatement project to be certified under ORS 468A.730.

(c) Certifies that the contractor has read and understands the applicable state and federal rules and regulations on asbestos abatement and agrees to comply with the rules and regulations.

**(3) Notwithstanding subsection (2) of this section, the department may refuse to issue a license to a contractor if the department finds that the contractor or a related person violated any of the provisions of ORS 468A.700 to 468A.755 or rules adopted under ORS 468A.700 to 468A.755.**

[(2)] (4) A contractor shall apply for a license or renewal of a license according to the procedures established by rule by the Environmental Quality Commission.

**SECTION 4.** ORS 468A.725 is amended to read:

468A.725. (1) **As used in this section, “related person” has the meaning given that term in ORS 468A.720.**

[(1)] (2) The Department of Environmental Quality may suspend or revoke an asbestos abatement license issued to a contractor under ORS 468A.720 if the licensee:

(a) Fraudulently obtains or attempts to obtain a license.

(b) Fails at any time to satisfy the qualifications for a license or to comply with rules adopted by the Environmental Quality Commission under ORS 468A.700 to 468A.760.

(c) Fails to meet any applicable state or federal standard relating to asbestos abatement.

(d) Permits an untrained worker to work on an asbestos abatement project.

(e) Employs a worker who fails to comply with applicable state or federal rules or regulations relating to asbestos abatement.

[(2)] (3) In addition to any penalty provided by ORS 468.140, the department may:

(a) Suspend or revoke the [*license or*] certification of any person who violates the conditions of ORS 468A.700 to 468A.755 or rules adopted under ORS 468A.700 to 468A.755[.]; **or**

**(b) Suspend or revoke the asbestos abatement license issued to any contractor if the contractor or a related person violates the provisions of ORS 468A.700 to 468A.755 or rules adopted under ORS 468A.700 to 468A.755.**

**SECTION 5.** This 2021 Act takes effect on the 91st day after the date on which the 2021 regular session of the Eighty-first Legislative Assembly adjourns sine die.

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**Passed by House April 16, 2021**

**Repassed by House June 3, 2021**

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

**Passed by Senate June 2, 2021**

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Peter Courtney, President of Senate

**Received by Governor:**

.....M.,....., 2021

**Approved:**

.....M.,....., 2021

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Kate Brown, Governor

**Filed in Office of Secretary of State:**

.....M.,....., 2021

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Shemia Fagan, Secretary of State