

A-Engrossed
House Bill 3372

Ordered by the House April 10
Including House Amendments dated April 10

Sponsored by Representative KOTEK; Representatives DEXTER, NOSSE

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.

Authorizes Department of Environmental Quality to [*designate person as chronic violator of environmental quality laws*] **require certain information related to history of compliance with environmental quality laws from applicant for license or permit.** [*Authorizes department to refuse to issue or renew permit to applicants that are or include chronic violator.*]

Modifies authority of department to refuse to issue, modify, suspend, revoke or refuse to renew permit.

Modifies authority of department to refuse to issue, suspend or revoke asbestos abatement license.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to environmental quality; creating new provisions; amending ORS 468.070, 468A.720 and
3 468A.725; and prescribing an effective date.

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

5 **SECTION 1.** (1) **The Department of Environmental Quality may require an applicant for**
6 **a permit or license authorized or required by ORS 448.305, 454.010 to 454.040, 454.205 to**
7 **454.255, 454.505 to 454.535 and 454.605 to 454.755 and ORS chapters 459, 459A, 465, 466, 468,**
8 **468A and 468B to provide the department with information reasonably sufficient for the de-**
9 **partment to evaluate the applicant's history of compliance with environmental quality laws**
10 **during the 10-year period prior to the application date.**

11 (2)(a) **Information that an applicant may be required to provide under this section in-**
12 **cludes, but is not limited to:**

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

16 (B) **A list of:**

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

19 (ii) **Subsidiary corporations or similar business entities over which the applicant exer-**
20 **cises substantial control; and**

21 (C) **Notices or other documents stating that a person has violated the provisions of ORS**
22 **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**
23 **chapters 459, 459A, 465, 466, 468, 468A and 468B, any rule or standard adopted under those**
24 **statutes or any order or permit issued by the department or the Environmental Quality**

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 **Commission.**

2 (b) **Information provided to the department under this section that has not previously**
3 **been made publicly available is confidential and not subject to public disclosure under ORS**
4 **192.311 to 192.478.**

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

6 468.070. (1) At any time, the Department of Environmental Quality may refuse to issue, modify,
7 suspend, revoke or refuse to renew any permit issued pursuant to ORS 468.065 if it finds:

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

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

10 (c) Violation of any applicable provisions of [*ORS 466.605 to 466.680, 466.990 (3) and (4) and*
11 *466.995 (2) or ORS chapters 468, 468A and 468B*] **ORS 448.305, 454.010 to 454.040, 454.205 to**
12 **454.255, 454.505 to 454.535 and 454.605 to 454.755 or ORS chapters 459, 459A, 465, 466, 468, 468A**
13 **and 468B.**

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

15 (2) The department may modify any permit issued pursuant to ORS 468.065 if it finds that mod-
16 ification is necessary for the proper administration, implementation or enforcement of the provisions
17 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
18 to 466.680 and ORS chapters 468, 468A and 468B.

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

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

21 **(A) An applicant;**

22 **(B) The applicant's current corporate officers, managers, members of the board of di-**
23 **rectors, general partners or other persons who exercise substantial control on behalf of or**
24 **over the applicant;**

25 **(C) Parent corporations or similar business entities that exercise substantial control over**
26 **the applicant; or**

27 **(D) Subsidiary corporations or similar business entities over which the applicant exer-**
28 **cises substantial control.**

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

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

31 **(B) Was caused by:**

32 **(i) An intentional act;**

33 **(ii) An act committed with knowledge that the act was a violation; or**

34 **(iii) A reckless act.**

35 **(C) Was caused by a person that:**

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

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

39 **(4) Refusal to issue a permit under subsection (1) of this section is subject to the ap-**
40 **proval of the Director of Environmental Quality.**

41 [(3)] (4) The procedure for modification, suspension, revocation or refusal to issue or renew shall
42 be the procedure for a contested case as provided in ORS chapter 183.

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

44 468A.720. (1) **As used in this section, "related person" means:**

45 **(A) A contractor's current corporate officers, managers, members of the board of direc-**

1 **tors, general partners or other persons who exercise substantial control on behalf of or over**
2 **a contractor;**

3 **(B) Parent corporations or similar business entities that exercise substantial control over**
4 **the contractor; or**

5 **(C) Subsidiary corporations or similar business entities over which the contractor exer-**
6 **cises substantial control.**

7 [(1)] (2) The Department of Environmental Quality shall issue an asbestos abatement license to
8 a contractor who:

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

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

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

14 **(3) Notwithstanding subsection (1) of this section, the department may refuse to issue a**
15 **license to a contractor if the department finds that the contractor or a related person vio-**
16 **lated any of the provisions of ORS 468A.700 to 468A.755 or rules adopted under ORS 468A.700**
17 **to 468A.755.**

18 [(2)] (4) A contractor shall apply for a license or renewal of a license according to the proce-
19 dures established by rule by the Environmental Quality Commission.

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

21 468A.725. (1) **As used in this section, “related person” has the meaning given that term**
22 **in ORS 468A.720.**

23 [(1)] (2) The Department of Environmental Quality may suspend or revoke an asbestos abate-
24 ment license issued to a contractor under ORS 468A.720 if the licensee:

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

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

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

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

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

32 [(2)] (3) In addition to any penalty provided by ORS 468.140, the department may:

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

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

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

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