

SENATE AMENDMENTS TO A-ENGROSSED HOUSE BILL 3372

By COMMITTEE ON ENERGY AND ENVIRONMENT

May 28

1 On page 1 of the printed A-engrossed bill, delete lines 5 through 24.

2 Delete page 2.

3 On page 3, delete lines 1 through 19 and insert:

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

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

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

15 **“(B) A list of:**

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

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

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

25 **“(b) Information provided to the department under this section that has not previously**
26 **been made publicly available is confidential and not subject to public disclosure under ORS**
27 **192.311 to 192.478.**

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

29 **“468.070. (1) At any time, the Department of Environmental Quality may refuse to issue, modify,**
30 **suspend, revoke or refuse to renew any permit issued pursuant to ORS 468.065 if it finds:**

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

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

33 **“(c) Violation of any applicable provisions of [ORS 466.605 to 466.680, 466.990 (3) and (4) and**
34 **466.995 (2) or ORS chapters 468, 468A and 468B] ORS 448.305, 454.010 to 454.040, 454.205 to**
35 **454.255, 454.505 to 454.535 and 454.605 to 454.755 or ORS chapters 459, 459A, 465, 466, 468, 468A**

1 **and 468B.**

2 “(d) Violation of any applicable rule, standard or order of the Environmental Quality Commis-
3 sion.

4 “(2) The department may modify any permit issued pursuant to ORS 468.065 if it finds that
5 modification is necessary for the proper administration, implementation or enforcement of the pro-
6 visions of ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755,
7 466.605 to 466.680 and ORS chapters 468, 468A and 468B.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 **“(v) Has been in compliance with any applicable rule, standard or order of the commis-**
31 **sion since the violation occurred.**

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

34 **“(4) A decision to refuse to issue, revoke or refuse to renew any permit under subsection**
35 **(1) of this section is subject to the approval of the Director of the Department of Environ-**
36 **mental Quality.**

37 **“[(3)] (5) The procedure for modification, suspension, revocation or refusal to issue or renew**
38 **shall be the procedure for a contested case as provided in ORS chapter 183.**

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

40 **“468A.720. (1) As used in this section, ‘related person’ means:**

41 **“(a) A contractor’s current corporate officers, managers, members of the board of di-**
42 **rectors, general partners or other persons who exercise substantial control on behalf of or**
43 **over a contractor;**

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

1 “(c) **Subsidiary corporations, or similar business entities, over which the contractor ex-**
2 **ercises substantial control.**

3 “[(1)] (2) The Department of Environmental Quality shall issue an asbestos abatement license
4 to a contractor who:

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

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

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

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

14 “[(2)] (4) A contractor shall apply for a license or renewal of a license according to the proce-
15 dures established by rule by the Environmental Quality Commission.”.

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