

B-Engrossed Senate Bill 737

Ordered by the Senate June 21
Including Senate Amendments dated May 9 and June 21

Sponsored by Senators WALKER, G GEORGE

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.

Directs Department of Environmental Quality to conduct study of persistent[, *bioaccumulative and toxic*] pollutants discharged in State of Oregon and report results of study to appropriate interim committee of Legislative Assembly by June 1, 2010.

Requires municipalities in possession of National Pollutant Discharge Elimination System permit or [*major source*] **certain** water pollution control facility permit to submit to department plan for reducing discharges of priority listed persistent[, *bioaccumulative and toxic*] pollutants.

Establishes Persistent[, *Bioaccumulative and Toxic*] Pollutant Control Account. Continuously appropriates moneys in account to department for implementation and enforcement of study.

[*Appropriates moneys from General Fund to department for biennial expenses related to implementation and enforcement of study.*]

Increases biennial limitation on expenditures from fees, moneys or other revenues, including Miscellaneous Receipts and certain federal funds, but excluding lottery funds and other federal funds, collected or received by department for purpose of carrying out provisions of Act.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to water quality; appropriating money; limiting expenditures; and declaring an emergency.

3 Whereas it is the goal of the State of Oregon's water quality protection scheme to protect,
4 maintain and improve the quality of the waters of this state; and

5 Whereas persistent, bioaccumulative and toxic pollutants can pose a threat to the health and
6 well-being of humans, fish and wildlife, especially aquatic species; and

7 Whereas there are many different sources of persistent, bioaccumulative and toxic pollutants
8 that contribute to the presence of such pollutants in the waters of this state; and

9 Whereas the State of Oregon currently does not have a comprehensive approach toward such
10 pollutants and their sources or an economically feasible alternative for reducing these pollutants;

11 now, therefore,

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

13 **SECTION 1. Sections 2 to 8 of this 2007 Act are added to and made a part of ORS chapter**
14 **468B.**

15 **SECTION 2. As used in sections 2 to 8 of this 2007 Act:**

16 (1) "Legacy" means a pollutant, the use of which has been banned or restricted for se-
17 veral years, that remains at detectable levels in sediment and tissue samples.

18 (2) "Municipality" means a city or special district that operates and maintains a sewage
19 treatment facility.

20 (3) "Permittee" means a municipality in possession of a National Pollutant Discharge

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 Elimination System permit or water pollution control facility permit issued by the Depart-
2 ment of Environmental Quality pursuant to ORS 468B.050 for a sewage treatment facility
3 that has a dry weather design flow capacity of one million gallons per day or more.

4 (4) "Persistent pollutant" means a substance that is toxic and either persists in the en-
5 vironment or accumulates in the tissues of humans, fish, wildlife or plants.

6 **SECTION 3.** (1) The Department of Environmental Quality shall conduct a study of per-
7 sistent pollutants discharged in the State of Oregon and report the results of that study to
8 an appropriate interim committee of the Legislative Assembly related to the environment
9 by June 1, 2010.

10 (2) The department's report shall include, but is not limited to, the following components:

11 (a) A priority listing of persistent pollutants that pose a threat to the waters of this
12 state, as defined in ORS 196.800, and have documented harmful effects on the health and
13 well-being of humans, fish or wildlife, especially aquatic species, based on factors including,
14 but not limited to:

15 (A) Toxicological and bioaccumulative factors;

16 (B) The feasibility of reduction options;

17 (C) Data concerning pollutant dose and response; and

18 (D) Data regarding the magnitude and significance of specific ongoing and legacy dis-
19 charges.

20 (b) Identification of individual point, nonpoint and legacy sources of priority listed per-
21 sistent pollutants from existing data, including an analysis identifying the quantity, concen-
22 tration and volume of such pollutants discharged by individual sources on an annual basis.

23 (c) An evaluation and assessment of source reduction and technological control measures
24 that can reduce the discharge of persistent pollutants into the waters of this state, including
25 an assessment of the costs and effectiveness of such measures and which measures should
26 be prioritized for reducing such pollutants.

27 (3) The department may contract with a private organization to conduct the study re-
28 quired under this section.

29 (4) The department shall consult with interested local and tribal governments, state and
30 federal agencies and other private organizations in preparing the report required under this
31 section.

32 (5)(a) The department shall prepare and report the priority listing described in subsection
33 (2)(a) of this section to the Seventy-fifth Legislative Assembly, in the manner provided by
34 ORS 192.245, on or before June 1, 2009.

35 (b) After June 1, 2009, the department shall report to the Legislative Assembly or an in-
36 terim committee related to the environment whenever the department adds to, or removes
37 from, the priority listing described in subsection (2)(a) of this section a persistent pollutant.

38 (6) For the purpose of defraying the cost of conducting and administering the study under
39 this section, the department may impose a surcharge on permits issued by the department
40 to permittees. Moneys collected under this subsection shall be deposited into the Persistent
41 Pollutant Control Account established under section 7 of this 2007 Act.

42 **SECTION 4.** (1)(a) By July 1, 2011, each permittee shall submit to the Department of
43 Environmental Quality a plan for reducing the permittee's discharges of persistent pollutants
44 listed on the priority listing described in section 3 (2)(a) of this 2007 Act:

45 (A) That occur in concentrations greater than the maximum contaminant levels estab-

1 lished by the National Primary Drinking Water Regulations adopted pursuant to the Safe
2 Drinking Water Act, 42 U.S.C. 300f et seq.; or

3 (B) For which no maximum contaminant levels have been adopted, but that the Envi-
4 ronmental Quality Commission determines by rule should be included in permittees' plans for
5 reducing permittees' discharges of priority-listed persistent pollutants.

6 (b) Determinations made by the commission under this subsection regarding persistent
7 pollutants are not standards of quality and purity for the waters of this state for the pur-
8 poses of ORS 468B.048.

9 (2) Plans submitted to the department pursuant to subsection (1) of this section shall
10 include, but are not limited to:

11 (a) A specific description of the concentrations and estimated annual quantity of per-
12 sistent pollutants that are discharged, based on water quality sampling data.

13 (b) The identification of measures to reduce the discharge of persistent pollutants.

14 (c) The identification of focused goals for reduction of persistent pollutants.

15 (3) Measures identified to reduce persistent pollutants may include, but are not limited
16 to:

17 (a) Collecting legacy pesticides;

18 (b) Reducing the use of mercury amalgams by dental offices;

19 (c) Implementing technological control measures;

20 (d) Working with businesses and manufacturers to reduce discharges through material
21 process changes;

22 (e) Collecting arm cuffs from blood pressure monitors;

23 (f) Requiring contractors to return heating, ventilating and air-conditioning system
24 thermostats;

25 (g) Recycling fluorescent lamps;

26 (h) Recycling rechargeable batteries;

27 (i) Monitoring abandoned mining sites;

28 (j) Managing sediments contaminated with persistent pollutants;

29 (k) Instituting policies for cleaning school laboratories;

30 (L) Instituting pharmaceutical take-back programs; and

31 (m) Taking steps to reduce the presence of mercury in schools.

32 (4) The department shall require, as a condition of receiving a new or renewed National
33 Pollutant Discharge Elimination System permit or water pollution control facility permit is-
34 sued by the department pursuant to ORS 468B.050 for a sewage treatment facility that has
35 a dry weather design flow capacity of one million gallons per day or more, that municipal
36 applicants:

37 (a) Implement plans to reduce the discharge of persistent pollutants according to pol-
38 lution reduction goals adopted by applicants for new permits.

39 (b) Implement plans to reduce the discharge of persistent pollutants according to pol-
40 lution reduction goals adopted by applicants and submit updated discharge reduction plans
41 with applications to renew a permit.

42 (5) The department shall incorporate a plan submitted pursuant to subsection (1) of this
43 section by a municipal applicant into a new or renewed National Pollutant Discharge Elimi-
44 nation System or water pollution control facility permit issued to the applicant.

45 **SECTION 5.** In accordance with applicable provisions of ORS chapter 183, the Environ-

1 mental Quality Commission may adopt rules necessary for the administration of sections 3
2 and 4 of this 2007 Act.

3 **SECTION 6.** (1) The Department of Environmental Quality may apply to any circuit court
4 for an order compelling compliance with any rule adopted by the Environmental Quality
5 Commission under section 5 of this 2007 Act. If the court finds that the defendant is not
6 complying with any rule so adopted, the court shall grant an injunction requiring compliance.
7 The court, on motion and affidavits, may grant a preliminary injunction ex parte upon such
8 terms as are just.

9 (2) The department need not give security before the issuance of an injunction under this
10 section.

11 (3) The court may award reasonable attorney fees and costs to the department if the
12 department prevails in an action under this section.

13 **SECTION 7.** The Persistent Pollutant Control Account is established, separate and dis-
14 tinct from the General Fund. Moneys may be credited to the account from any public or
15 private source. Moneys in the account are continuously appropriated to the Department of
16 Environmental Quality and may be used only for the purposes described in sections 3 to 6
17 of this 2007 Act.

18 **SECTION 8.** All moneys received by the Department of Environmental Quality under
19 section 6 of this 2007 Act shall be deposited to the credit of the Persistent Pollutant Control
20 Account established under section 7 of this 2007 Act.

21 **SECTION 9.** Notwithstanding any other law limiting expenditures, the limitation on
22 expenditures established by section 2 (2), chapter __, Oregon Laws 2007 (Enrolled House Bill
23 5022), for the biennium beginning July 1, 2007, as the maximum limit for payment of expenses
24 from fees, moneys or other revenues, including Miscellaneous Receipts and certain federal
25 funds, but excluding lottery funds and other federal funds, collected or received by the De-
26 partment of Environmental Quality, is increased by \$229,430 for the purpose of carrying out
27 the provisions of sections 2 to 8 of this 2007 Act.

28 **SECTION 10.** This 2007 Act being necessary for the immediate preservation of the public
29 peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect
30 on its passage.

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