

# House Bill 3105

Sponsored by Representatives ROBLAN, WITT; Representatives BOONE, COWAN, KRIEGER, Senators JOHNSON, KRUSE, VERGER

## 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**.

Adds exception to requirements regarding ballast water discharge. Allows Environmental Quality Commission to adopt rules regarding ballast water discharge.

Creates Shipping Transport of Aquatic Invasive Species Task Force. Sunsets task force on January 2, 2012.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to ballast water; creating new provisions; amending ORS 783.635; and declaring an emer-  
3 gency.

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

5 **SECTION 1.** ORS 783.635 is amended to read:

6 783.635. (1) Except as authorized by this section, the discharge of ballast water in the waters  
7 of this state is prohibited.

8 (2) An owner or operator of a vessel may discharge ballast water in the waters of this state:

9 (a) If the owner or operator has conducted a complete open sea or coastal exchange of ballast  
10 water prior to entering the waters of this state. The open sea or coastal exchange must be per-  
11 formed using either of the following methods:

12 (A) Flow-through exchange. A flow-through exchange occurs when an amount of ocean water  
13 equal to or exceeding three times the capacity of the vessel's ballast water tank is pumped into an  
14 opening in the ballast water tank while the existing ballast water is discharged through another  
15 opening.

16 (B) An empty and refill exchange. An empty and refill exchange occurs when a ballast water  
17 tank is pumped empty to the point that the pump loses suction and then is refilled with ocean water.

18 (b) Without performing an open sea exchange or a coastal exchange of ballast water if:

19 (A)(i) The owner or operator reasonably believes that an exchange would threaten the safety  
20 of the vessel; or

21 (ii) The exchange is not feasible due to vessel design limitations or equipment failure; and

22 (B) The vessel discharges only the amount of ballast water that is operationally necessary.

23 (c) **If the ballast water is discharged in a manner consistent with standards adopted by**  
24 **the Environmental Quality Commission under subsection (4) of this section.**

25 (3) An owner or operator who discharges ballast water in the waters of this state under sub-  
26 section (2)(b) of this section is subject to the reporting requirements under ORS 783.640.

27 (4) **The Environmental Quality Commission may adopt by rule standards that the com-**  
28 **mission considers necessary to carry out the provisions of ORS 783.625 to 783.640. The stan-**  
29 **dards must minimize the risk of introducing aquatic nonindigenous species into the waters**

**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 of this state and must be based on the availability of treatment technology. To the extent  
 2 practicable, the commission shall adopt rules consistent with relevant rules adopted by the  
 3 States of California and Washington.

4 **SECTION 2.** In adopting rules under ORS 783.635, the Environmental Quality Commission  
 5 shall consult with the Shipping Transport of Aquatic Invasive Species Task Force created  
 6 under section 3 of this 2009 Act.

7 **SECTION 3.** (1)(a) There is created the Shipping Transport of Aquatic Invasive Species  
 8 Task Force.

9 (b) The President of the Senate and the Speaker of the House of Representatives shall  
 10 each appoint two members from among members of the Legislative Assembly to serve in an  
 11 advisory capacity to the task force.

12 (c) The Director of the Department of Environmental Quality may appoint members to  
 13 the task force who represent the interests of this state and federal, State of Washington,  
 14 maritime, environmental and academic interests.

15 (2) The purpose of the task force is to study and make recommendations:

16 (a) For combating the introduction of aquatic nonindigenous species associated with  
 17 shipping-related transport into the waters of this state;

18 (b) For identifying sources of funding to support and maintain the ballast water program  
 19 established in ORS 783.625 to 783.640; and

20 (c) For changes to the ballast water program established in ORS 783.625 to 783.640, in-  
 21 cluding but not limited to the following considerations:

22 (A) Shipping industry compliance with ORS 783.625 to 783.640;

23 (B) Practicable and cost-effective ballast water treatment technologies;

24 (C) Appropriate standards for discharge of treated ballast water into the waters of this  
 25 state;

26 (D) The compatibility of ORS 783.625 to 783.640 with new laws enacted by the United  
 27 States Congress, regulations promulgated by the United States Coast Guard and ballast wa-  
 28 ter management programs established by the States of Alaska, California and Washington  
 29 and the Province of British Columbia;

30 (E) Practicable and cost-effective techniques to combat the introduction of aquatic  
 31 nonindigenous species associated with shipping-related transport into the waters of this  
 32 state; and

33 (F) Appropriate regulations and standards to combat the introduction of aquatic  
 34 nonindigenous species associated with shipping-related transport into the waters of this  
 35 state.

36 (3) Portland State University may provide staff support or coordination assistance to the  
 37 task force, subject to available funding from gifts, grants or donations.

38 (4) All agencies of state government, as defined in ORS 174.111, are directed to assist the  
 39 task force in the performance of its duties and, to the extent permitted by laws relating to  
 40 confidentiality, to furnish such information and advice as the members of the task force  
 41 consider necessary to perform their duties.

42 (5) A majority of the members of the task force constitutes a quorum for the transaction  
 43 of business.

44 (6) Official action by the task force requires the approval of a majority of the members  
 45 of the task force.

1       **(7) The task force shall elect one of its members to serve as chairperson.**

2       **(8) The task force, in consultation with the Invasive Species Council established pursuant**  
3 **to ORS 561.687, shall submit a report, including recommendations for legislation, to an in-**  
4 **terim committee of the Legislative Assembly related to natural resources no later than Oc-**  
5 **tober 1, 2010.**

6       **(9) Notwithstanding ORS 171.072, members of the task force who are members of the**  
7 **Legislative Assembly are not entitled to mileage expenses or a per diem and serve as volun-**  
8 **teers on the task force. Other members of the task force are not entitled to compensation**  
9 **or reimbursement for expenses and serve as volunteers on the task force.**

10       **(10) As used in this section:**

11       **(a) “Aquatic nonindigenous species” means any species or other viable biological material**  
12 **that enters an ecosystem beyond its historic range.**

13       **(b) “Waters of this state” has the meaning given that term in ORS 783.625.**

14       **SECTION 4.** **Section 3 of this 2009 Act is repealed on January 2, 2012.**

15       **SECTION 5.** **This 2009 Act being necessary for the immediate preservation of the public**  
16 **peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect**  
17 **on its passage.**

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