

House Bill 2121

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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**.

Allows Environmental Quality Commission and State Department of Agriculture to enter into memorandum of understanding that provides for department to operate program for prevention of water pollution from chemical wastes and discharges of biological materials. Allows department to perform certain acts relating to prevention of water pollution from chemical wastes and discharges of biological materials.

Prohibits allowing chemical wastes, and discharges of biological materials, from certain point sources without permit.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to water pollution; creating new provisions; amending ORS 468B.005, 468B.035 and
3 468B.050; and declaring an emergency.

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

5 **SECTION 1. Section 2 of this 2011 Act is added to and made a part of ORS chapter 468B.**

6 **SECTION 2. (1) The Environmental Quality Commission and the State Department of**
7 **Agriculture may enter into a memorandum of understanding providing for the State De-**
8 **partment of Agriculture to operate a program for the prevention and control of water pol-**
9 **lution caused by chemical wastes and discharges of biological materials.**

10 **(2) Subject to the terms of the memorandum of understanding described in subsection**
11 **(1) of this section, the State Department of Agriculture may perform any function of the**
12 **Environmental Quality Commission or the Department of Environmental Quality relating to**
13 **the control and prevention of water pollution caused by chemical wastes and discharges of**
14 **biological materials, including but not limited to adopting rules establishing:**

15 **(a) Schedules of civil penalties, as allowed by ORS 468.130 and 468.140, that may be im-**
16 **posed by the State Department of Agriculture for failure to comply with a provision of ORS**
17 **chapter 468 or 468B, or any rule adopted or permit issued under ORS chapter 468 or 468B,**
18 **related to the control and prevention of water pollution caused by chemical wastes and dis-**
19 **charges of biological materials.**

20 **(b) Fees for permits issued or renewed under ORS 468B.035 and 468B.050. Fees established**
21 **under this paragraph shall cover, but not exceed, the administrative costs of the State De-**
22 **partment of Agriculture in carrying out the provisions of this section.**

23 **SECTION 3. ORS 468B.005 is amended to read:**

24 468B.005. As used in the laws relating to water pollution, unless the context requires otherwise:

25 **(1) "Biological materials" means biological pesticides that consist of artificial concen-**
26 **trations of viruses, bacteria, fungi or plant materials.**

27 **(2) "Chemical wastes" means:**

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 **(a) Residual pesticides that find their way into the waters of the state after a pesticide**
 2 **is applied over or near the water.**

3 **(b) Residual pesticides that remain in the waters of the state after a pesticide is applied**
 4 **directly to the water.**

5 [(1)] (3) “Disposal system” means a system for disposing of wastes, either by surface or under-
 6 ground methods and includes municipal sewerage systems, domestic sewerage systems, treatment
 7 works, disposal wells and other systems.

8 [(2)] (4) “Industrial waste” means any liquid, gaseous, radioactive or solid waste substance or
 9 a combination thereof resulting from any process of industry, manufacturing, trade or business, or
 10 from the development or recovery of any natural resources.

11 [(3)] (5) “Nonpoint source” means any source of pollution other than a point source.

12 [(4)] (6) “Point source” means any discernible, confined and discrete conveyance, including but
 13 not limited to a pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock,
 14 concentrated animal feeding operation, vessel or other floating craft, from which pollutants are or
 15 may be discharged. “Point source” does not include agricultural storm water discharges and return
 16 flows from irrigated agriculture.

17 [(5)] (7) “Pollution” or “water pollution” means such alteration of the physical, chemical or bi-
 18 ological properties of any waters of the state, including change in temperature, taste, color,
 19 turbidity, silt or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive or
 20 other substance into any waters of the state, which will or tends to, either by itself or in connection
 21 with any other substance, create a public nuisance or which will or tends to render such waters
 22 harmful, detrimental or injurious to public health, safety or welfare, or to domestic, commercial,
 23 industrial, agricultural, recreational or other legitimate beneficial uses or to livestock, wildlife, fish
 24 or other aquatic life or the habitat thereof.

25 [(6)] (8) “Sewage” means the water-carried human or animal waste from residences, buildings,
 26 industrial establishments or other places, together with such ground water infiltration and surface
 27 water as may be present. The admixture with sewage of wastes or industrial wastes shall also be
 28 considered “sewage” within the meaning of ORS 448.305, 454.010 to 454.040, 454.205 to 454.255,
 29 454.505 to 454.535, 454.605 to 454.755 and ORS chapters 468, 468A and 468B.

30 [(7)] (9) “Sewerage system” means pipelines or conduits, pumping stations, and force mains, and
 31 all other structures, devices, appurtenances and facilities used for collecting or conducting wastes
 32 to an ultimate point for treatment or disposal.

33 [(8)] (10) “Treatment works” means any plant or other works used for the purpose of treating,
 34 stabilizing or holding wastes.

35 [(9)] (11) “Wastes” means sewage, industrial wastes, and all other liquid, gaseous, solid, radio-
 36 active or other substances which will or may cause pollution or tend to cause pollution of any wa-
 37 ters of the state.

38 [(10)] (12) “Water” or “the waters of the state” include lakes, bays, ponds, impounding reser-
 39 vairs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Pacific Ocean
 40 within the territorial limits of the State of Oregon and all other bodies of surface or underground
 41 waters, natural or artificial, inland or coastal, fresh or salt, public or private (except those private
 42 waters which do not combine or effect a junction with natural surface or underground waters),
 43 which are wholly or partially within or bordering the state or within its jurisdiction.

44 **SECTION 4.** ORS 468B.035 is amended to read:

45 468B.035. (1) The Environmental Quality Commission may perform or cause to be performed any

1 acts necessary to be performed by the state to implement within the jurisdiction of the state the
 2 provisions of the Federal Water Pollution Control Act, P.L. 92-500, [as amended] **as in effect on the**
 3 **effective date of this 2011 Act**, and federal regulations or guidelines issued pursuant to the Act.
 4 The commission may adopt, modify or repeal rules, pursuant to ORS chapter 183, for the adminis-
 5 tration and implementation of this subsection.

6 (2)(a) The State Department of Agriculture may perform or cause to be performed any acts
 7 necessary to be performed by the state to implement the provisions of the Federal Water Pollution
 8 Control Act, P.L. 92-500, [as amended] **as in effect on the effective date of this 2011 Act**, and any
 9 federal regulations or guidelines issued pursuant to the Act, relating to:

10 (A) The control and prevention of water pollution from livestock and other animal-based agri-
 11 cultural operations; **and**

12 (B) **The control and prevention of water pollution caused by chemical wastes and dis-**
 13 **charges of biological materials.**

14 (b) The department may adopt rules pursuant to ORS chapter 183 for the administration and
 15 implementation of this subsection.

16 **SECTION 5.** ORS 468B.050 is amended to read:

17 468B.050. (1) Except as provided in ORS 468B.053 or 468B.215, without holding a permit from the
 18 Director of the Department of Environmental Quality or the State Department of Agriculture, which
 19 permit shall specify applicable effluent limitations, a person may not:

20 (a) Discharge any wastes into the waters of the state from any industrial or commercial estab-
 21 lishment or activity or any disposal system.

22 (b) Construct, install, modify or operate any disposal system or part thereof or any extension
 23 or addition thereto.

24 (c) Increase in volume or strength any wastes in excess of the permissive discharges specified
 25 under an existing permit.

26 (d) Construct, install, operate or conduct any industrial, commercial, confined animal feeding
 27 operation or other establishment or activity or any extension or modification thereof or addition
 28 thereto, the operation or conduct of which would cause an increase in the discharge of wastes into
 29 the waters of the state or which would otherwise alter the physical, chemical or biological proper-
 30 ties of any waters of the state in any manner not already lawfully authorized.

31 (e) Construct or use any new outlet for the discharge of any wastes into the waters of the state.

32 (f) **Allow chemical wastes, or discharges of biological materials into the waters of the**
 33 **state, from a point source subject to the provisions of the Federal Water Pollution Control**
 34 **Act, P.L. 92-500, as in effect on the effective date of this 2011 Act.**

35 (2) The Department of Environmental Quality or the State Department of Agriculture may issue
 36 a permit under this section as an individual, general or watershed permit. A permit may be issued
 37 to a class of persons using the procedures for issuance of an order or for the adoption of a rule.
 38 Notwithstanding the definition of “order” or “rule” provided in ORS 183.310, in issuing a general
 39 or watershed permit by order pursuant to this section, the State Department of Agriculture or De-
 40 partment of Environmental Quality:

41 (a) Is not required to direct the order to a named person or named persons; and

42 (b) May include in the order agency directives, standards, regulations and statements of general
 43 applicability that implement, interpret or prescribe law or policy.

44 (3) The State Department of Agriculture or the Department of Environmental Quality may define
 45 “confined animal feeding operation” by rule for purposes of implementing this section.

1 **SECTION 6. This 2011 Act being necessary for the immediate preservation of the public**
2 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
3 **on its passage.**

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