

HOUSE AMENDMENTS TO HOUSE BILL 2209

By COMMITTEE ON VETERANS AND EMERGENCY PREPAREDNESS

April 9

1 On page 7 of the printed bill, delete lines 5 through 7 and insert:

2 “(A) An annual oil spill or release notification exercise;

3 “(B) A triennial oil spill or release response tabletop exercise;

4 “(C) A triennial oil spill or release response functional exercise; and

5 “(D) A triennial oil spill containment and recovery equipment deployment exercise.”.

6 On page 10, after line 43, insert:

“FEES

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10 “**SECTION 13a.** (1) Subject to subsections (2) and (3) of this section, each railroad that
11 is required to submit a contingency plan for a high hazard train route under section 5 of this
12 2019 Act shall pay to the Department of Transportation in each year a fee equal to the
13 amount that the Department of Environmental Quality finds and determines to be necessary
14 to defray the costs of only those duties imposed on the Department of Environmental Quality
15 by law for which costs may be paid from the High Hazard Train Route Oil Spill Preparedness
16 Fund established under section 14 of this 2019 Act.

17 “(2) In each calendar year, the percentage rate of the fee required to be paid shall be
18 determined by orders entered by the Department of Transportation on or after March 1 of
19 each year. The department shall provide notice of the order to each railroad. Each railroad
20 shall pay to the Department of Transportation the fee or portion of the fee as computed
21 pursuant to this subsection on a date, as specified in the notice, that is at least 15 days after
22 the date of mailing the notice.

23 “(3) The total of the fees payable by railroads described in subsection (1) of this section
24 may not exceed five hundredths of one percent of the combined gross operating revenues
25 derived within this state of all railroads described in subsection (1) of this section.

26 “(4) Payment of each fee or portion of the fee, verification of gross operating revenues
27 by the railroad and any refunds of overpayment of the fee shall be made in the manner
28 provided for and at the same time as payment of the fee required under ORS 824.010 and
29 subject to ORS 824.012. Notwithstanding ORS 824.010 (1) and (4), the fee provided for in this
30 section shall be in addition to all other fees paid or payable by railroads to the Department
31 of Transportation.

32 “(5) Fees collected under this section shall be paid into the State Treasury and deposited
33 in the High Hazard Train Route Oil Spill Preparedness Fund established under section 14 of
34 this 2019 Act.

35 “**SECTION 13b.** As used in this section and section 13c of this 2019 Act:

1 “(1) ‘Oil’ has the meaning given that term in ORS 468B.300 except that ‘oil’ does not
2 mean gasoline or any other petroleum related product that has been processed such that it
3 is capable of being used as a fuel for the propulsion of a motor vehicle.

4 “(2) ‘Owner’ means the person who has the ultimate control over, and the right to use
5 or sell, oil being shipped.

6 “(3) ‘Person’ means an individual, trust, firm, joint stock company, corporation, part-
7 nership, joint venture, consortium, association, state, municipality, commission, political
8 subdivision of a state or any interstate body, any commercial entity and the federal govern-
9 ment or any agency of the federal government.

10 “(4) ‘Tank railroad car’ means a loaded or unloaded railroad car or rolling stock desig-
11 nated to transport oil as part of a single train that transports:

12 “(a) 20 or more tank railroad cars in a continuous block that are loaded with oil; or

13 “(b) 35 or more tank railroad cars loaded with oil that are spread throughout the entirety
14 of the rolling stock, not including the locomotive, that make up the train.

15 “SECTION 13c. (1)(a) The owner of oil at the time the oil is transported by loaded tank
16 railroad car in this state shall pay to the Department of Revenue a fee not to exceed \$20 for
17 each tank railroad car loaded with oil.

18 “(b) If the loaded tank railroad car enters this state from outside of this state, the fee
19 shall be imposed on the owner of the oil at the time the loaded tank railroad car enters this
20 state.

21 “(c) If the tank railroad car is loaded with oil in this state, the fee shall be imposed upon
22 the loading of the oil into or onto the tank railroad car for transport in or through this state.

23 “(2) The Department of Environmental Quality and the office of the State Fire Marshal
24 shall establish by rule the amount of the fee required under this section as necessary to
25 provide funding for programs authorized to be funded by moneys in the High Hazard Train
26 Route Oil Spill Preparedness Fund established under section 14 of this 2019 Act and the Oil
27 and Hazardous Material Transportation by Rail Action Fund established under ORS 453.394.

28 “(3) Any oil that the Constitution or laws of the United States prohibit the state from
29 taxing is exempt from the fee imposed under this section.

30 “(4)(a) Each owner of oil transported by loaded tank railroad car shall remit payment of
31 the fee established under this section on a quarterly basis.

32 “(b) Each owner of oil transported by loaded tank railroad car shall register with the
33 Department of Revenue at least 30 days prior to the date that the owner’s oil is transported
34 by loaded tank railroad car in this state.

35 “(c) Each owner of oil transported by loaded tank railroad car shall keep at the person’s
36 registered place of business complete and accurate records of any petroleum products sold,
37 purchased by, or brought in or caused to be brought in to the place of business.

38 “(d) The Department of Revenue, upon oral or written reasonable notice, may make such
39 examinations of the books, papers, records and equipment required to be kept under this
40 subsection as it may deem necessary in carrying out this section.

41 “(5) The Department of Revenue is authorized to establish those rules and procedures for
42 the implementation and enforcement of this section that are consistent with this section’s
43 provisions and are considered necessary and appropriate.

44 “(6) The provisions of ORS chapters 305 and 314 as to liens, delinquencies, claims for re-
45 fund, issuance of refunds, conferences, appeals to the Oregon Tax Court, stay of collection

1 pending appeal, cancellation, waiver, reduction or compromise of fees, penalties or interest,
2 subpoenaing and examining witnesses and books and papers, and the issuance of warrants
3 and the procedures relating thereto, shall apply to the collection of fees, penalties and in-
4 terest by the Department of Revenue under this section, except where the context requires
5 otherwise.

6 “(7) All moneys received by the Department of Revenue under this section shall be de-
7 posited in the State Treasury and credited to a suspense account established under ORS
8 293.445. After payment of administration expenses incurred by the department in the ad-
9 ministration of this section and of refunds or credits arising from erroneous overpayments,
10 the balance of the money shall be transferred to the High Hazard Train Route Oil Spill
11 Preparedness Fund established under section 14 of this 2019 Act and to the Oil and Hazardous
12 Material Transportation by Rail Action Fund established under ORS 453.394, in the propor-
13 tionate amounts that each agency found and determined to be necessary under subsection
14 (2) of this section.

15 “SECTION 13d. (1) Sections 13a to 13c of this 2019 Act are repealed on January 2, 2027.

16 “(2) Any moneys remaining in the High Hazard Train Route Oil Spill Preparedness Fund
17 established under section 14 of this 2019 Act and the Oil and Hazardous Material Transpor-
18 tation by Rail Action Fund established under ORS 453.394 on the date of the repeal specified
19 in subsection (1) of this section that were collected pursuant to sections 13a to 13c of this
20 2019 Act that are unexpended, unobligated and not subject to any conditions shall be re-
21 funded to the payors without interest.”.

22 On page 12, delete lines 35 through 45 and insert:

23 “(d) Shall include a recurring, three-year training cycle of statewide training exercises that:

24 “(A) Commences with a triennial tabletop exercise that includes the Department of Environ-
25 mental Quality, the Department of Transportation, the Office of Emergency Management, state and
26 local responders, federally recognized Indian tribes in this state and railroads that operate in this
27 state;

28 “(B) Includes, in the second year of the training cycle, a triennial statewide functional exercise
29 to test and evaluate response capabilities, functional groups, plans, incident command staff and
30 emergency operations centers in their abilities to respond to an oil or a hazardous material spill or
31 release that occurs during rail transport; and

32 “(C) Includes provisions for the planning, preparation and implementation, in the third year of
33 the training cycle, of a triennial full-scale, multiagency, multijurisdictional and multidisciplinary oil
34 or hazardous material spill or release training exercise that:

35 “(i) Involves training for all manner of personnel necessary for a coordinated response to an oil
36 or a hazardous material spill or release;

37 “(ii) Is intended to examine or validate the planning, coordination and command and control
38 decisions that may be made in the event of an oil or hazardous material spill or release and to also
39 examine or validate response-specific capabilities or functions; and

40 “(iii) Involves training that covers the entire sequence of events that take place during an oil
41 or hazardous material spill or release incident that occurs during rail transport; and”.

42 On page 13, delete lines 1 through 3.

43 In line 4, delete “(f)” and insert “(e)”.

44 Delete lines 29 through 40.

45 In line 44, delete “20” and insert “18”.

