

Requested by Senator FINDLEY

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 3372**

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

12 **“(2)(a) Information that an applicant may be required to provide**
13 **under this section includes, but is not limited to:**

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

17 **“(B) A list of:**

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

20 **“(ii) Subsidiary corporations, or similar business entities, over**
21 **which the applicant exercises substantial control; and**

1 **“(C) Notices or other documents stating that a person has violated**
2 **the provisions of ORS 448.305, 454.010 to 454.040, 454.205 to 454.255,**
3 **454.505 to 454.535 and 454.605 to 454.755 and ORS chapters 459, 459A, 465,**
4 **466, 468, 468A and 468B, any rule or standard adopted under those**
5 **statutes or any order or permit issued by the department or the En-**
6 **vironmental Quality Commission.**

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

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

11 “468.070. (1) At any time, the Department of Environmental Quality may
12 refuse to issue, modify, suspend, revoke or refuse to renew any permit issued
13 pursuant to ORS 468.065 if it finds:

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

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

17 “(c) Violation of any applicable provisions of [*ORS 466.605 to 466.680,*
18 *466.990 (3) and (4) and 466.995 (2) or ORS chapters 468, 468A and 468B*] **ORS**
19 **448.305, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535 and 454.605**
20 **to 454.755 or ORS chapters 459, 459A, 465, 466, 468, 468A and 468B.**

21 “(d) Violation of any applicable rule, standard or order of the Environ-
22 mental Quality Commission.

23 “(2) The department may modify any permit issued pursuant to ORS
24 468.065 if it finds that modification is necessary for the proper adminis-
25 tration, implementation or enforcement of the provisions of ORS 448.305,
26 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755,
27 466.605 to 466.680 and ORS chapters 468, 468A and 468B.

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

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

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

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

6 **“(C) Parent corporations, or similar business entities, that exercise**
7 **substantial control over the facility that is the subject of the applica-**
8 **tion or permit; or**

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

11 **“(b) The department may not consider a violation unless the vio-**
12 **lation:**

13 **“(A) Was committed by a person that:**

14 **“(i) Had a conscious objective to cause the result of the conduct;**
15 **and**

16 **“(ii) Knew or had reason to know that the result of the conduct**
17 **was not lawful; and**

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

20 **“(c) The department may not consider an alleged violation that was**
21 **resolved through a mutual agreement and order, or a similar settle-**
22 **ment agreement, in which the alleged violator did not admit to the**
23 **alleged violation or any facts, findings, conclusions or other**
24 **allegations necessary to prove the violation.**

25 **“(d)(A) The department shall consider whether a violation was**
26 **caused by a person that:**

27 **“(i) Has a demonstrated practice of taking action to correct vio-**
28 **lations or minimize the effects of violations to avoid risk or harm; or**

29 **“(ii) Made efforts to ensure the violation would not be repeated.**

30 **“(B) The department must consider mitigating factors or circum-**

1 **stances presented to the department by an applicant under this para-**
2 **graph.**

3 **“(4) A decision to refuse to issue, revoke or refuse to renew any**
4 **permit under subsection (1) of this section is subject to the approval**
5 **of the Director of the Department of Environmental Quality.**

6 **“[(3)] (5)(a) The procedure for modification, suspension, revocation or re-**
7 **fusal to issue or renew shall be the procedure for a contested case as pro-**
8 **vided in ORS chapter 183.**

9 **(b) In addition to the grounds for setting aside or remanding an**
10 **order under ORS chapter 183, a decision to refuse to issue, revoke or**
11 **refuse to renew any permit under subsection (1) of this section shall**
12 **be set aside or remanded if the decision is arbitrary and capricious,**
13 **an abuse of discretion or otherwise not in accordance with law.**

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

15 **“468A.720. (1) As used in this section, ‘related person’ means:**

16 **“(A) A contractor’s current corporate officers, managers, members**
17 **of the board of directors, general partners or other persons who exer-**
18 **cise substantial control on behalf of or over a contractor;**

19 **“(B) Parent corporations, or similar business entities, that exercise**
20 **substantial control over the contractor; or**

21 **“(C) Subsidiary corporations, or similar business entities, over**
22 **which the contractor exercises substantial control.**

23 **“[(1)] (2) The Department of Environmental Quality shall issue an**
24 **asbestos abatement license to a contractor who:**

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

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

29 **“(c) Certifies that the contractor has read and understands the applicable**
30 **state and federal rules and regulations on asbestos abatement and agrees to**

1 comply with the rules and regulations.

2 **“(3) Notwithstanding subsection (1) of this section, the department**
3 **may refuse to issue a license to a contractor if the department finds**
4 **that the contractor or a related person violated any of the provisions**
5 **of ORS 468A.700 to 468A.755 or rules adopted under ORS 468A.700 to**
6 **468A.755.**

7 “[2] (4) A contractor shall apply for a license or renewal of a license
8 according to the procedures established by rule by the Environmental Qual-
9 ity Commission.”.

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