

## HOUSE AMENDMENTS TO HOUSE BILL 2949

By COMMITTEE ON EMERGENCY MANAGEMENT, GENERAL GOVERNMENT, AND  
VETERANS

April 11

1 In line 2 of the printed bill, after “facilities” insert “; and prescribing an effective date”.

2 Delete lines 4 through 13 and insert:

3 **“SECTION 1. Sections 2 to 5 of this 2025 Act are added to and made a part of ORS**  
4 **chapter 468B.**

5 **“SECTION 2. The Legislative Assembly finds and declares that:**

6 **“(1) Ensuring financial responsibility for covered entities handling oil, liquid fuel and**  
7 **hazardous materials is essential to protecting the state’s natural resources, economy and**  
8 **public health.**

9 **“(2) Covered entities must be financially capable of covering all spill-related liabilities,**  
10 **including spill or release response, remediation and damages.**

11 **“(3) Requirements for certificates of financial responsibility established by the Environ-**  
12 **mental Quality Commission under section 4 of this 2025 Act should ensure that covered en-**  
13 **tities maintain sufficient financial assurances to address potential spill-related liabilities.**

14 **“(4) Rules adopted by the commission under section 4 of this 2025 Act should align with**  
15 **federal standards, where appropriate, while addressing state-specific risks and needs.**

16 **“SECTION 3. As used in sections 2 to 4 of this 2025 Act:**

17 **“(1) ‘Certificate of financial responsibility’ means a certification issued by the Depart-**  
18 **ment of Environmental Quality that confirms that a covered entity has demonstrated the**  
19 **financial ability to cover potential spill-related liabilities.**

20 **“(2) ‘Covered entity’ means a ‘bulk oils or liquid fuels terminal,’ as defined in ORS**  
21 **468B.510.**

22 **“(3) ‘Financial assurance mechanism’ means an instrument or other evidence that es-**  
23 **tablishes financial assurance for spill-related liabilities, including but not limited to:**

24 **“(a) Evidence of insurance;**

25 **“(b) Surety bonds;**

26 **“(c) A letter of credit;**

27 **“(d) A trust; or**

28 **“(e) Other evidence of financial responsibility deemed acceptable by the Environmental**  
29 **Quality Commission.**

30 **“(4) ‘Hazardous material’ has the meaning given that term in ORS 466.605.**

31 **“(5) ‘Spill or release’ means the discharge, deposit, injection, dumping, spilling, emitting,**  
32 **releasing, leaking or placing of any oil, liquid fuel or hazardous material into the air or into**  
33 **or on any land or waters of the state.**

34 **“(6) ‘Spill-related liability’ means the costs associated with an oil, liquid fuel or hazardous**  
35 **material spill or release, including but not limited to:**

1       “(a) Spill or release response and cleanup expenses;  
2       “(b) Fire damage;  
3       “(c) Natural resource damage assessments and restoration;  
4       “(d) Costs incurred by a federally recognized Indian tribe in responding to or remediating  
5 the impacts of a spill or release;  
6       “(e) Third-party economic and property damage claims; or  
7       “(f) Civil penalties imposed by any applicable law.  
8       “SECTION 4. (1) The owner or operator of a covered entity shall acquire and maintain a  
9 certificate of financial responsibility in accordance with rules adopted by the Environmental  
10 Quality Commission under this section.  
11       “(2) Rules adopted by the commission must:  
12       “(a) Establish reasonable minimum amounts of financial assurance based on an evalu-  
13 ation of:  
14       “(A) The type, size and operational risk of covered entities;  
15       “(B) The maximum volume of oil, liquid fuel or hazardous materials handled by covered  
16 entities;  
17       “(C) Historical spill or release response costs and projected cleanup expenses in the areas  
18 where covered entities operate;  
19       “(D) The environmental sensitivity of the areas where covered entities operate;  
20       “(E) Commercially available financial assurance mechanisms, including maximum cover-  
21 ages offered; and  
22       “(F) Financial assurance requirements in other jurisdictions.  
23       “(b) Describe acceptable financial assurance mechanisms.  
24       “(c) Require that, before a certificate of financial responsibility is issued to a covered  
25 entity, one or more financial assurance mechanisms will cover the covered entity’s potential  
26 spill-related liabilities.  
27       “(d) Establish policies and procedures for enforcing this section, including:  
28       “(A) A process for verifying a covered entity’s evidence of financial assurance;  
29       “(B) Standards for restricting or suspending the operations of covered entities that do  
30 not satisfy the requirements of this section; and  
31       “(C) In accordance with ORS 468.130 and rules adopted pursuant to ORS 468.130, the im-  
32 position of a civil penalty for each day that a covered entity operates without a certificate  
33 of financial assurance.  
34       “(e) Be consistent with the requirements of federal law, including the federal Oil Pol-  
35 lution Act of 1990 (P.L. 101-380), while accounting for state-specific needs.  
36       “(3)(a) Rules adopted under this section may not require a covered entity to obtain an  
37 amount of financial assurance that is greater than \$300 million.  
38       “(b) No more than once every three years, the department may evaluate and adjust the  
39 maximum amount of financial assurance listed in paragraph (a) of this subsection.  
40       “(4) The commission shall, at regular times established by the commission by rule, up-  
41 date the minimum amounts of financial assurance established under subsection (2)(a) of this  
42 section to reflect:  
43       “(a) Inflation and other economic conditions;  
44       “(b) Industry changes and improvements;  
45       “(c) Emerging risks; and

1       “(d) Lessons learned from spill or release response efforts.

2       “(5)(a) The commission shall appoint an advisory committee to assist the commission in  
3 drafting rules under this section and ensure that the requirements for financial responsibil-  
4 ity established under this section are fair and effective.

5       “(b) The advisory committee shall be composed of, in equal proportions:

6       “(A) Industry stakeholders;

7       “(B) Local government representatives; and

8       “(C) Community members.

9       “(c) The advisory committee may consult with or be advised by any person with expertise  
10 relevant to the duties of the advisory committee.

11       “(6) A local government, as defined in ORS 174.116, may not adopt or enforce any ordi-  
12 nance, rule or regulation requiring the owner or operator of covered entity to obtain a fi-  
13 nancial assurance mechanism that exceeds or is in addition to the requirements of this  
14 section or rules adopted by the commission pursuant to this section.

15       “SECTION 5. No later than September 15 of each even-numbered year, the Department  
16 of Environmental Quality shall submit a report to the interim committees of the Legislative  
17 Assembly related to emergency management and the environment, in the manner provided  
18 by ORS 192.245, that describes the department’s implementation of sections 2 to 4 of this 2025  
19 Act.

20       “SECTION 6. In lieu of the first report required under section 5 of this 2025 Act, the  
21 Department of Environmental Quality shall, no later than September 15, 2026, submit a re-  
22 port to the interim committees of the Legislative Assembly related to emergency manage-  
23 ment and the environment, in the manner provided by ORS 192.245, that describes:

24       “(1) The progress made by the department and the Environmental Quality Commission  
25 in drafting, adopting or implementing rules under section 4 of this 2025 Act;

26       “(2) Whether proposed or adopted minimum amounts of financial assurance are sufficient  
27 to cover spill-related liabilities;

28       “(3) The ability of covered entities to comply with the requirements established under  
29 section 2 of this 2025 Act; and

30       “(4) Any recommendations for legislation.

31       “SECTION 7. Notwithstanding section 4 (3) of this 2025 Act, the Department of Environ-  
32 mental Quality may not evaluate or adjust the maximum amount of financial assurance  
33 listed in section 4 (3) of this 2025 Act before January 1, 2030.

34       “SECTION 8. This 2025 Act takes effect on the 91st day after the date on which the 2025  
35 regular session of the Eighty-third Legislative Assembly adjourns sine die.”.  
36

---