

Requested by Representative TRAN

**PROPOSED AMENDMENTS TO
HOUSE BILL 2949**

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

3 Delete lines 4 through 13 and insert:

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

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

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

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

13 **“(3) Requirements for certificates of financial responsibility estab-
14 lished by the Environmental Quality Commission under section 4 of
15 this 2025 Act should ensure that covered entities maintain sufficient
16 financial assurances to address potential spill-related liabilities.**

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

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

21 **“(1) ‘Certificate of financial responsibility’ means a certification is-**

1 sued by the Department of Environmental Quality that confirms that
2 a covered entity has demonstrated the financial ability to cover po-
3 tential spill-related liabilities.

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

6 “(3) ‘Financial assurance mechanism’ means an instrument or
7 other evidence that establishes financial assurance for spill-related li-
8 abilities, including but not limited to:

9 “(a) Evidence of insurance;

10 “(b) Surety bonds;

11 “(c) A letter of credit;

12 “(d) A trust; or

13 “(e) Other evidence of financial responsibility deemed acceptable by
14 the Environmental Quality Commission.

15 “(4) ‘Hazardous material’ has the meaning given that term in ORS
16 466.605.

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

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

24 “(a) Spill or release response and cleanup expenses;

25 “(b) Fire damage;

26 “(c) Natural resource damage assessments and restoration;

27 “(d) Costs incurred by a federally recognized Indian tribe in re-
28 sponding to or remediating the impacts of a spill or release;

29 “(e) Third-party economic and property damage claims; or

30 “(f) Civil penalties imposed by any applicable law.

1 **“SECTION 4. (1) The owner or operator of a covered entity shall**
2 **acquire and maintain a certificate of financial responsibility in ac-**
3 **cordance with rules adopted by the Environmental Quality Commis-**
4 **sion under this section.**

5 **“(2) Rules adopted by the commission must:**

6 **“(a) Establish reasonable minimum amounts of financial assurance**
7 **based on an evaluation of:**

8 **“(A) The type, size and operational risk of covered entities;**

9 **“(B) The maximum volume of oil, liquid fuel or hazardous materials**
10 **handled by covered entities;**

11 **“(C) Historical spill or release response costs and projected cleanup**
12 **expenses in the areas where covered entities operate;**

13 **“(D) The environmental sensitivity of the areas where covered en-**
14 **tities operate;**

15 **“(E) Commercially available financial assurance mechanisms, in-**
16 **cluding maximum coverages offered; and**

17 **“(F) Financial assurance requirements in other jurisdictions.**

18 **“(b) Describe acceptable financial assurance mechanisms.**

19 **“(c) Require that, before a certificate of financial responsibility is**
20 **issued to a covered entity, one or more financial assurance mech-**
21 **anisms will cover the covered entity’s potential spill-related liabilities.**

22 **“(d) Establish policies and procedures for enforcing this section,**
23 **including:**

24 **“(A) A process for verifying a covered entity’s evidence of financial**
25 **assurance;**

26 **“(B) Standards for restricting or suspending the operations of cov-**
27 **ered entities that do not satisfy the requirements of this section; and**

28 **“(C) In accordance with ORS 468.130 and rules adopted pursuant to**
29 **ORS 468.130, the imposition of a civil penalty for each day that a cov-**
30 **ered entity operates without a certificate of financial assurance.**

1 “(e) Be consistent with the requirements of federal law, including
2 the federal Oil Pollution Act of 1990 (P.L. 101-380), while accounting for
3 state-specific needs.

4 “(3)(a) Rules adopted under this section may not require a covered
5 entity to obtain an amount of financial assurance that is greater than
6 \$300 million.

7 “(b) No more than once every three years, the department may
8 evaluate and adjust the maximum amount of financial assurance listed
9 in paragraph (a) of this subsection.

10 “(4) The commission shall, at regular times established by the
11 commission by rule, update the minimum amounts of financial assur-
12 ance established under subsection (2)(a) of this section to reflect:

13 “(a) Inflation and other economic conditions;

14 “(b) Industry changes and improvements;

15 “(c) Emerging risks; and

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

17 “(5)(a) The commission shall appoint an advisory committee to as-
18 sist the commission in drafting rules under this section and ensure
19 that the requirements for financial responsibility established under
20 this section are fair and effective.

21 “(b) The advisory committee shall be composed of, in equal pro-
22 portions:

23 “(A) Industry stakeholders;

24 “(B) Local government representatives; and

25 “(C) Community members.

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

28 “(6) A local government, as defined in ORS 174.116, may not adopt
29 or enforce any ordinance, rule or regulation requiring the owner or
30 operator of covered entity to obtain a financial assurance mechanism

1 that exceeds or is in addition to the requirements of this section or
2 rules adopted by the commission pursuant to this section.

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

9 **“SECTION 6.** In lieu of the first report required under section 5 of
10 this 2025 Act, the Department of Environmental Quality shall, no later
11 than September 15, 2026, submit a report to the interim committees
12 of the Legislative Assembly related to emergency management and the
13 environment, in the manner provided by ORS 192.245, that describes:

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

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

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

21 **“(4)** Any recommendations for legislation.

22 **“SECTION 7.** Notwithstanding section 4 (3) of this 2025 Act, the
23 Department of Environmental Quality may not evaluate or adjust the
24 maximum amount of financial assurance listed in section 4 (3) of this
25 2025 Act before January 1, 2030.

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

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