

A-Engrossed House Bill 2949

Ordered by the House April 11
Including House Amendments dated April 11

Sponsored by Representative TRAN, Senator FREDERICK, Representative NELSON; Representatives CHOTZEN, GAMBA, HUDSON, ISADORE (Presession filed.)

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. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: This Act makes owners of bulk oils and liquid fuels terminals show they can cover the costs of oil or fuel spills. (Flesch Readability Score: 80.6).

[Digest: This Act tells the DEQ to contract for a study about making bulk oils and liquid fuels terminal owners get bonds or insurance. (Flesch Readability Score: 61.6).]

[Requires the Department of Environmental Quality to contract with a third party to study and assess financial assurance requirements for owners or operators of bulk oils and liquid fuels terminals. Directs the department to submit findings to the interim committees of the Legislative Assembly related to the environment no later than September 15, 2026.]

[Sunsets on January 2, 2027.]

Requires owners or operators of bulk oils or liquid fuels terminals to obtain a certificate of financial responsibility from the Department of Environmental Quality.

Directs the Environmental Quality Commission to establish rules pertaining to certificates of responsibility. Requires the department to report to the Legislative Assembly on the implementation of the Act each even-numbered year.

Preempts local governments from requiring financial assurance that exceeds or is in addition to the requirements of the Act.

Takes effect on the 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to financial assurance for certain facilities; and prescribing an effective date.

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

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

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

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

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

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

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

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

18 (1) **"Certificate of financial responsibility" means a certification issued by the Depart-**
19 **ment of Environmental Quality that confirms that a covered entity has demonstrated the**

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 financial ability to cover potential spill-related liabilities.

2 (2) "Covered entity" means a "bulk oils or liquid fuels terminal," as defined in ORS
3 468B.510.

4 (3) "Financial assurance mechanism" means an instrument or other evidence that es-
5 tablishes financial assurance for spill-related liabilities, including but not limited to:

6 (a) Evidence of insurance;

7 (b) Surety bonds;

8 (c) A letter of credit;

9 (d) A trust; or

10 (e) Other evidence of financial responsibility deemed acceptable by the Environmental
11 Quality Commission.

12 (4) "Hazardous material" has the meaning given that term in ORS 466.605.

13 (5) "Spill or release" means the discharge, deposit, injection, dumping, spilling, emitting,
14 releasing, leaking or placing of any oil, liquid fuel or hazardous material into the air or into
15 or on any land or waters of the state.

16 (6) "Spill-related liability" means the costs associated with an oil, liquid fuel or hazardous
17 material spill or release, including but not limited to:

18 (a) Spill or release response and cleanup expenses;

19 (b) Fire damage;

20 (c) Natural resource damage assessments and restoration;

21 (d) Costs incurred by a federally recognized Indian tribe in responding to or remediating
22 the impacts of a spill or release;

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

24 (f) Civil penalties imposed by any applicable law.

25 **SECTION 4.** (1) The owner or operator of a covered entity shall acquire and maintain a
26 certificate of financial responsibility in accordance with rules adopted by the Environmental
27 Quality Commission under this section.

28 (2) Rules adopted by the commission must:

29 (a) Establish reasonable minimum amounts of financial assurance based on an evaluation
30 of:

31 (A) The type, size and operational risk of covered entities;

32 (B) The maximum volume of oil, liquid fuel or hazardous materials handled by covered
33 entities;

34 (C) Historical spill or release response costs and projected cleanup expenses in the areas
35 where covered entities operate;

36 (D) The environmental sensitivity of the areas where covered entities operate;

37 (E) Commercially available financial assurance mechanisms, including maximum cover-
38 ages offered; and

39 (F) Financial assurance requirements in other jurisdictions.

40 (b) Describe acceptable financial assurance mechanisms.

41 (c) Require that, before a certificate of financial responsibility is issued to a covered en-
42 tity, one or more financial assurance mechanisms will cover the covered entity's potential
43 spill-related liabilities.

44 (d) Establish policies and procedures for enforcing this section, including:

45 (A) A process for verifying a covered entity's evidence of financial assurance;

1 (B) Standards for restricting or suspending the operations of covered entities that do not
2 satisfy the requirements of this section; and

3 (C) In accordance with ORS 468.130 and rules adopted pursuant to ORS 468.130, the im-
4 position of a civil penalty for each day that a covered entity operates without a certificate
5 of financial assurance.

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

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

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

12 (4) The commission shall, at regular times established by the commission by rule, update
13 the minimum amounts of financial assurance established under subsection (2)(a) of this
14 section to reflect:

15 (a) Inflation and other economic conditions;

16 (b) Industry changes and improvements;

17 (c) Emerging risks; and

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

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

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

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 person with expertise
27 relevant to the duties of the advisory committee.

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

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

37 **SECTION 6.** In lieu of the first report required under section 5 of this 2025 Act, the De-
38 partment of Environmental Quality shall, no later than September 15, 2026, submit a report
39 to the interim committees of the Legislative Assembly related to emergency management
40 and the environment, in the manner provided by ORS 192.245, that describes:

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

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

45 (3) The ability of covered entities to comply with the requirements established under

1 **section 2 of this 2025 Act; and**

2 **(4) Any recommendations for legislation.**

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

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

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