

Minority Report
A-Engrossed
House Bill 3104

Ordered by the House June 13
Including House Minority Report Amendments dated June 13

Sponsored by nonconcurring members of the House Committee on Water: Representatives BARNHART, TOMEI

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.

[Directs State Parks and Recreation Department to enter into agreement with Mid-Willamette Valley Council of Governments to perform dredging and other maintenance activities on Willamette River. Allows Mid-Willamette Valley Council of Governments to contract with other entities to perform dredging and other maintenance activities. Directs department to fund dredging and other maintenance activities from State Parks and Recreation Department Fund.]

Directs Environmental Quality Commission to adopt, by January 1, 2007, and periodically revise water quality plan to reduce amount of persistent bioaccumulative toxins being discharged into toxic mixing zones within Willamette River. Defines terms.

Directs Department of Environmental Quality to require testing of fish in toxic mixing zones that are likely to accumulate persistent bioaccumulative toxins before issuance or renewal of permit allowing discharge of waste into toxic mixing zone.

Requires permit holders to monitor waste discharge and make monthly reports to department. Requires permit holders who discharge persistent bioaccumulative toxins into toxic mixing zones at concentrations causing waters of zone to fail to meet water quality and purity standards to install and maintain marker systems around perimeters of zones.

A BILL FOR AN ACT

1
2 Relating to maintenance of the Willamette River.

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

4 **SECTION 1. As used in sections 1 to 5 of this 2005 Act:**

5 (1) "Persistent bioaccumulative toxins" means toxic substances that accumulate in plant
6 and animal tissue and remain in the tissue for substantial periods of time.

7 (2) "Toxic mixing zone" means an area within a segment of the Willamette River where
8 the Environmental Quality Commission allows concentrations of persistent bioaccumulative
9 toxins to exceed chronic or acute water toxicity criteria established by the commission.

10 **SECTION 2. (1) The Environmental Quality Commission shall adopt by rule, and based**
11 **on water quality monitoring performed by the Department of Environmental Quality period-**
12 **ically revise, a plan to achieve the goal of substantially reducing the amount of persistent**
13 **bioaccumulative toxins being discharged into toxic mixing zones located within the**
14 **Willamette River.**

15 (2) The plan shall include a strategy that incorporates the responsibilities of the depart-
16 ment in implementing the Federal Water Pollution Control Act (P.L. 92-500), including set-
17 ting conditions on the permits issued pursuant to ORS 468B.050.

18 (3) The department, as part of ensuring that standards of quality and purity for the
19 Willamette River are being met, shall require a person discharging waste into a toxic mixing

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 zone and a person applying for a permit to discharge waste into the Willamette River that
2 will require the creation of a toxic mixing zone to test the waters and sediment in, and im-
3 mediately outside, the toxic mixing zone for the presence of persistent bioaccumulative
4 toxins. The testing shall be:

5 (a) Designed to identify the accumulation of persistent bioaccumulative toxins that are
6 present;

7 (b) Focused on the persistent bioaccumulative toxins that are discharged into each toxic
8 mixing zone;

9 (c) Targeted in areas where persistent bioaccumulative toxins are most likely to accu-
10 mulate;

11 (d) Paid for by the person discharging waste or applying for a permit to discharge waste;
12 and

13 (e) Required to be performed at least once every two years by a person discharging waste
14 under a permit.

15 **SECTION 3.** (1) For each toxic mixing zone located within the Willamette River, the De-
16 partment of Environmental Quality shall require the testing of fish that:

17 (a) Have primary habitat located in the zone or that spend a significant portion of their
18 life cycle within the zone; and

19 (b) Are likely to accumulate persistent bioaccumulative toxins.

20 (2) The Department of Environmental Quality shall consult with the Department of Hu-
21 man Services in the testing required under this section in order to avoid duplication of
22 testing of species.

23 (3) The testing shall occur prior to the issuance or renewal of any permit issued under
24 ORS 468B.050 and shall be paid for by the person that is applying for the permit or renewal.

25 **SECTION 4.** Any person that, under a permit issued pursuant to ORS 468B.050, dis-
26 charges wastes that contain persistent bioaccumulative toxins in concentrations that exceed
27 chronic or acute toxicity criteria established by the Environmental Quality Commission into
28 a toxic mixing zone located within the Willamette River shall, on a monthly basis, monitor
29 the wastes and shall make monthly reports to the Department of Environmental Quality.
30 The monitoring reports shall contain information on the amounts and concentration of the
31 persistent bioaccumulative toxins contained in the wastes.

32 **SECTION 5.** (1) Any person that, under a permit issued pursuant to ORS 468B.050, dis-
33 charges wastes that contain persistent bioaccumulative toxins into a toxic mixing zone lo-
34 cated within the Willamette River at concentrations that cause the waters within the toxic
35 mixing zone to fail to meet the standards for water quality and purity established by the
36 Environmental Quality Commission under ORS 468B.048 shall install and maintain a system
37 of buoys or similar markers around the perimeter of the toxic mixing zone.

38 (2) The buoys or similar markers required under subsection (1) of this section:

39 (a) May not interfere with navigation or use of the waters;

40 (b) Must be installed in a readily visible manner;

41 (c) Shall indicate the persistent bioaccumulative toxins contained in the discharge that
42 cause the waters to fail to meet the standards for water quality and purity; and

43 (d) Shall indicate the person that is discharging wastes into the toxic mixing zone.

44 (3) If the person determines, after consultation with the commission, that it is not fea-
45 sible to install buoys or similar markers around a toxic mixing zone due to issues related to

1 navigation or small stream size, onshore signs may be used as a substitute, provided that the
2 signs:

3 (a) Have conspicuous text stating the word "WARNING" that is visible from all the
4 boundaries of the toxic mixing zone;

5 (b) Contain the same information required by subsection (2) of this section; and

6 (c) Contain a map showing the general location of the toxic mixing zone.

7 (4) If the person determines that it is not feasible to install buoys, markers or onshore
8 signs, then the person may request that the commission approve another comparable means
9 of public notice.

10 SECTION 6. (1) The Environmental Quality Commission shall adopt the plan required by
11 section 2 of this 2005 Act no later than January 1, 2007, and present the plan to the
12 Seventy-fourth Legislative Assembly.

13 (2) The Department of Environmental Quality shall implement the plan adopted by the
14 commission on July 1, 2007.

15 SECTION 7. Sections 4 and 5 of this 2005 Act become operative on September 1, 2006.
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