

HOUSE MINORITY REPORT AMENDMENTS TO HOUSE BILL 3104

June 13

Speaker Minnis:

A minority of your Committee on Water, to whom was referred House Bill 3104, having had the same under consideration, respectfully reports it back with the recommendation that it do pass with the following amendments:

- 1 Delete lines 4 through 26 of the printed bill and insert:
2 **“SECTION 1. As used in sections 1 to 5 of this 2005 Act:**
3 **“(1) ‘Persistent bioaccumulative toxins’ means toxic substances that accumulate in plant**
4 **and animal tissue and remain in the tissue for substantial periods of time.**
5 **“(2) ‘Toxic mixing zone’ means an area within a segment of the Willamette River where**
6 **the Environmental Quality Commission allows concentrations of persistent bioaccumulative**
7 **toxins to exceed chronic or acute water toxicity criteria established by the commission.**
8 **“SECTION 2. (1) The Environmental Quality Commission shall adopt by rule, and based**
9 **on water quality monitoring performed by the Department of Environmental Quality period-**
10 **ically revise, a plan to achieve the goal of substantially reducing the amount of persistent**
11 **bioaccumulative toxins being discharged into toxic mixing zones located within the**
12 **Willamette River.**
13 **“(2) The plan shall include a strategy that incorporates the responsibilities of the de-**
14 **partment in implementing the Federal Water Pollution Control Act (P.L. 92-500), including**
15 **setting conditions on the permits issued pursuant to ORS 468B.050.**
16 **“(3) The department, as part of ensuring that standards of quality and purity for the**
17 **Willamette River are being met, shall require a person discharging waste into a toxic mixing**
18 **zone and a person applying for a permit to discharge waste into the Willamette River that**
19 **will require the creation of a toxic mixing zone to test the waters and sediment in, and im-**
20 **mediately outside, the toxic mixing zone for the presence of persistent bioaccumulative**
21 **toxins. The testing shall be:**
22 **“(a) Designed to identify the accumulation of persistent bioaccumulative toxins that are**
23 **present;**
24 **“(b) Focused on the persistent bioaccumulative toxins that are discharged into each toxic**
25 **mixing zone;**
26 **“(c) Targeted in areas where persistent bioaccumulative toxins are most likely to accu-**
27 **minate;**
28 **“(d) Paid for by the person discharging waste or applying for a permit to discharge waste;**
29 **and**
30 **“(e) Required to be performed at least once every two years by a person discharging**
31 **waste under a permit.**
32 **“SECTION 3. (1) For each toxic mixing zone located within the Willamette River, the**

1 Department of Environmental Quality shall require the testing of fish that:

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

4 “(b) Are likely to accumulate persistent bioaccumulative toxins.

5 “(2) The Department of Environmental Quality shall consult with the Department of
6 Human Services in the testing required under this section in order to avoid duplication of
7 testing of species.

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

10 “SECTION 4. Any person that, under a permit issued pursuant to ORS 468B.050, dis-
11 charges wastes that contain persistent bioaccumulative toxins in concentrations that exceed
12 chronic or acute toxicity criteria established by the Environmental Quality Commission into
13 a toxic mixing zone located within the Willamette River shall, on a monthly basis, monitor
14 the wastes and shall make monthly reports to the Department of Environmental Quality.
15 The monitoring reports shall contain information on the amounts and concentration of the
16 persistent bioaccumulative toxins contained in the wastes.

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

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

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

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

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

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

29 “(3) If the person determines, after consultation with the commission, that it is not fea-
30 sible to install buoys or similar markers around a toxic mixing zone due to issues related to
31 navigation or small stream size, onshore signs may be used as a substitute, provided that the
32 signs:

33 “(a) Have conspicuous text stating the word ‘WARNING’ that is visible from all the
34 boundaries of the toxic mixing zone;

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

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

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

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

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

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

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/s/ Phil Barnhart
Representative

/s/ Carolyn Tomei
Representative
