A-Engrossed

Senate Bill 737

Ordered by the Senate May 9
Including Senate Amendments dated May 9

Sponsored by Senators WALKER, G GEORGE

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 Department of Environmental Quality to condition discharge permits to prohibit discharge of persistent bioaccumulative toxins in amounts or concentrations that may be harmful to aquatic life or human health.]

Directs Department of Environmental Quality to conduct study of persistent, bioaccumulative and toxic pollutants discharged in State of Oregon and report results of study to appropriate interim committee of Legislative Assembly by June 1, 2010.

Requires municipalities in possession of National Pollutant Discharge Elimination System permit or major source water pollution control facility permit to submit to department plan for reducing discharges of priority listed persistent, bioaccumulative and toxic pollutants.

Establishes Persistent, Bioaccumulative and Toxic Pollutant Control Account. Continuously appropriates moneys in account to department for implementation and enforcement of study.

Appropriates moneys from General Fund to department for biennial expenses related to implementation and enforcement of study.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to water quality; appropriating money; and declaring an emergency.

Whereas it is the goal of the State of Oregon's water quality protection scheme to protect, maintain and improve the quality of the waters of this state; and

Whereas persistent, bioaccumulative and toxic pollutants can pose a threat to the health and well-being of humans, fish and wildlife, especially aquatic species; and

Whereas there are many different sources of persistent, bioaccumulative and toxic pollutants that contribute to the presence of such pollutants in the waters of this state; and

Whereas the State of Oregon currently does not have a comprehensive approach toward such pollutants and their sources or an economically feasible alternative for reducing these pollutants; and

now, therefore,

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

SECTION 1. Sections 2 to 8 of this 2007 Act are added to and made a part of ORS chapter 468B.

SECTION 2. As used in sections 2 to 8 of this 2007 Act:

(1) “Municipality” means a city or special district.

(2) “Permittee” means a municipality in possession of a major source National Pollutant Discharge Elimination System permit or a major source water pollution control facility permit issued by the Department of Environmental Quality pursuant to ORS 468B.050.

(3) “Persistent, bioaccumulative and toxic pollutant” means a substance that is toxic and
either persists in the environment or accumulates in the tissues of humans, fish, wildlife and plants.

SECTION 3. (1) The Department of Environmental Quality shall conduct a study of persistent, bioaccumulative and toxic pollutants discharged in the State of Oregon and report the results of that study to an appropriate interim committee of the Seventy-fifth Legislative Assembly related to the environment by June 1, 2010.

(2) The department’s report shall include, but is not limited to, the following components:

(a) A priority listing of persistent, bioaccumulative and toxic pollutants that pose a threat to the waters of this state, as defined in ORS 196.800, and the health and well-being of humans, fish and wildlife, especially aquatic species, based on factors including, but not limited to:

(A) Toxicological and bioaccumulative factors;

(B) The feasibility of reduction options;

(C) Data concerning pollutant dose and response; and

(D) Data regarding the magnitude and significance of specific ongoing and legacy discharges.

(b) Identification of individual point, nonpoint and legacy sources of priority listed persistent, bioaccumulative and toxic pollutants from existing data, including an analysis identifying the quantity, concentration and volume of such pollutants discharged by individual sources on an annual basis.

(c) An evaluation and assessment of source reduction and technological control measures that can reduce the discharge of persistent, bioaccumulative and toxic pollutants into the waters of this state, including an assessment of the costs and effectiveness of such measures and which measures should be prioritized for reducing such pollutants.

(3) The department may contract with a private organization to conduct the study required under this section.

(4) The department shall consult with interested local and tribal governments, state and federal agencies and other private organizations in preparing the report required under this section.

(5)(a) The department shall prepare and report the priority listing described in subsection (2)(a) of this section to the Seventy-fifth Legislative Assembly, in the manner provided by ORS 192.245, on or before June 1, 2009.

(b) After June 1, 2009, the department shall prepare and report the priority listing described in subsection (2)(a) of this section to a legislative committee related to the environment on a schedule adopted by the department.

(6) For the purpose of defraying the cost of conducting and administering the study under this section, the department may impose a surcharge on permits issued by the department to permittees and other municipal permit holders as determined by the department. Moneys collected under this subsection shall be deposited into the Persistent, Bioaccumulative and Toxic Pollutant Control Account established under section 7 of this 2007 Act.

SECTION 4. (1) By July 1, 2011, each permittee shall submit to the Department of Environmental Quality a plan for reducing their discharges of priority listed persistent, bioaccumulative and toxic pollutants that occur:

(a) In concentrations greater than the standards contained in the Safe Drinking Water Act, 42 U.S.C. 300h et seq.; or
(b) In concentrations or loads that the Environmental Quality Commission may determine pose a threat to ecosystems, fish, wildlife or human health.

(2) Plans submitted to the department pursuant to subsection (1) of this section shall include, but are not limited to:

(a) A specific description of the concentrations and estimated annual quantity of persistent, bioaccumulative and toxic pollutants that are discharged, based on water quality sampling data.

(b) The identification of measures to reduce the discharge of persistent, bioaccumulative and toxic pollutants.

(c) The identification of focused goals for reduction of persistent, bioaccumulative and toxic pollutants.

(3) Measures identified to reduce persistent, bioaccumulative and toxic pollutants may include, but are not limited to:

(a) Collecting legacy pesticides;

(b) Reducing mercury amalgams in dental offices;

(c) Implementing technological control measures;

(d) Changing manufacturing processes;

(e) Returning arm cuffs from blood pressure monitors;

(f) Requiring contractors to return heating, ventilating and air-conditioning system thermostats;

(g) Recycling fluorescent lamps;

(h) Recycling rechargeable batteries;

(i) Monitoring abandoned mining sites;

(j) Managing sediments contaminated with persistent, bioaccumulative and toxic pollutants;

(k) Instituting policies for cleaning school laboratories;

(L) Instituting drug take-back programs; and

(m) Taking steps to reduce the presence of mercury in schools.

(4) The department shall require, as a condition of receiving new or renewed discharge permits issued by the department, that permit applicants:

(a) Implement plans to reduce the discharge of persistent, bioaccumulative and toxic pollutants according to pollution reduction goals adopted by permit applicants; and

(b) Submit updated discharge reduction plans with applications to renew a permit.

(5) The department shall incorporate plans submitted by permittees pursuant to subsection (1) of this section into a new or renewed major source National Pollutant Discharge Elimination System or major source water pollution control facility permit issued to a permit applicant.

SECTION 5. In accordance with applicable provisions of ORS chapter 183, the Environmental Quality Commission may adopt rules necessary for the administration of sections 3 and 4 of this 2007 Act.

SECTION 6. (1) The Department of Environmental Quality may apply to any circuit court for an order compelling compliance with any rule adopted by the department under section 5 of this 2007 Act. If the court finds that the defendant is not complying with any rule so adopted, the court shall grant an injunction requiring compliance. The court, on motion and affidavits, may grant a preliminary injunction ex parte upon such terms as are just.
(2) The department need not give security before the issuance of an injunction under this section.

(3) The court may award reasonable attorney fees and costs to the department if the department prevails in an action under this section.

SECTION 7. The Persistent, Bioaccumulative and Toxic Pollutant Control Account is established, separate and distinct from the General Fund. Interest earned by the account shall be credited to the account. Moneys may be credited to the account from any public or private source. Moneys in the account are continuously appropriated to the Department of Environmental Quality and may be used only for the purposes described in sections 3 to 6 of this 2007 Act.

SECTION 8. All moneys received by the Department of Environmental Quality under section 6 of this 2007 Act shall be deposited to the credit of the Persistent, Bioaccumulative and Toxic Pollutant Control Account established under section 7 of this 2007 Act.

SECTION 9. There is appropriated to the Department of Environmental Quality, for the biennium beginning July 1, 2007, out of the General Fund, the amount of $ for the purpose of carrying out the provisions of sections 3 to 6 of this 2007 Act.

SECTION 10. This 2007 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect on its passage.