

**B-Engrossed**  
**House Bill 2101**

Ordered by the House August 2  
Including House Amendments dated July 18 and August 2

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for Office of the Governor)

**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.

*[Creates Office of Homeland Security. Transfers Office of Emergency Management to Office of Homeland Security. Abolishes Interagency Hazard Communication Council. Transfers office of State Fire Marshal from Department of State Police to Office of Homeland Security. Transfers certain offices and divisions from Department of State Police to Office of Homeland Security.]*

**Creates State Interoperability Executive Council in Office of Emergency Management. Directs Office of Emergency Management to coordinate work of public safety agencies and State Interoperability Executive Council to develop Public Safety Wireless Infrastructure Replacement Plan.**

*Creates Oregon Homeland Security Council. [Creates State Interoperability Executive Council.]*

**Abolishes Interagency Hazard Communication Council. Transfers functions of Interagency Hazard Communication Council to office of State Fire Marshal.**

*Declares emergency, effective on passage.*

**A BILL FOR AN ACT**

1  
2 Relating to Oregon security; creating new provisions; amending ORS 401.025, 401.270, 401.305,  
3 401.515, 453.307, 453.317, 453.520, 453.825, 466.620 and 654.196; repealing ORS 453.510, 453.517  
4 and 453.527; limiting expenditures; and declaring an emergency.

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

6 **SECTION 1. (1) The Oregon Legislative Assembly finds that:**

7 (a) **The public safety communications infrastructure of the State of Oregon is rapidly**  
8 **aging, outdated and at severe risk of failure;**

9 (b) **The adopted policies and standards and specific deadlines mandated by the Federal**  
10 **Communications Commission will require replacement of statewide public safety communi-**  
11 **cations infrastructure in the State of Oregon;**

12 (c) **The reliability of mission-critical public safety communications infrastructure during**  
13 **a man-made or natural disaster is crucial to saving lives and property and to protecting the**  
14 **public during an emergency;**

15 (d) **The deteriorating condition of our public safety radio systems is of immediate concern**  
16 **because it compromises the safety and well-being of the citizens of the State of Oregon who**  
17 **depend upon lifesaving communications systems used by first responders;**

18 (e) **The majority of the communications systems in the State of Oregon are unreliable,**  
19 **greatly increasing the danger to first responders and law enforcement officers in carrying**  
20 **out their duty to protect the citizens and property of the State of Oregon;**

21 (f) **It is in the public interest of Oregonians to plan for improvement of the public safety**  
22 **communications infrastructure to ensure long-term stability; and**

**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 (g) Federal funding for homeland security may be available to facilitate all or part of the  
2 development and implementation of a plan for improvement of the public safety communi-  
3 cations infrastructure in the State of Oregon.

4 (2) It is the policy of the State of Oregon:

5 (a) To develop, finance, maintain and operate a single emergency response wireless  
6 communications infrastructure that supports both the communications needs of all state  
7 agencies and ensures communications interoperability among all state, local, tribal and fed-  
8 eral public safety agencies, thereby maximizing shared use of this invaluable public asset.

9 (b) To meet Federal Communications Commission mandates for the conversion of public  
10 safety communications frequencies and spectrum allocation by 2013.

11 **SECTION 2.** (1) Under the direction of the Governor, the Office of Emergency Manage-  
12 ment shall coordinate the work of public safety agencies in the state and the State Interop-  
13 erability Executive Council, created under section 3 of this 2005 Act, to develop a Public  
14 Safety Wireless Infrastructure Replacement Plan that:

15 (a) Guides consolidation of existing radio infrastructure;

16 (b) Provides for future management of the infrastructure;

17 (c) Details the engineering and technology specifications for replacement and modern-  
18 ization of the public safety communications infrastructure, allowing for alternative options  
19 and phased system development; and

20 (d) Describes the overall benefits and cost of the system including, but not limited to,  
21 specific descriptions of:

22 (A) The capability of the system to facilitate interconnections among state, local and  
23 federal systems;

24 (B) How the system will comply with Federal Communications Commission requirements;  
25 and

26 (C) Avoided costs the shared system can provide.

27 (2) The Office of Emergency Management shall:

28 (a) Submit reports on the progress of plan development to the Emergency Board and the  
29 Joint Legislative Committee on Information Management and Technology on or before No-  
30 vember 30, 2005, and June 30, 2006.

31 (b) Submit the final plan to the Governor, the President of the Senate and the Speaker  
32 of the House of Representatives on or before January 12, 2007.

33 (c) Concurrent with submission of the final plan, submit to the Legislative Assembly one  
34 or more proposals for financing implementation of the plan that include consideration of the  
35 following financial resources:

36 (A) Federal funding sources;

37 (B) Existing or new fee income or excise taxes; and

38 (C) Cooperative local and state financing components.

39 **SECTION 3.** (1) The State Interoperability Executive Council is created within the Office  
40 of Emergency Management. The membership of the council shall consist of:

41 (a) Two members from the Legislative Assembly, as follows:

42 (A) The President of the Senate shall appoint one member from the Senate with an in-  
43 terest in public safety communications infrastructure; and

44 (B) The Speaker of the House of Representatives shall appoint one member from the  
45 House of Representatives with an interest in public safety and wireless communications

1 **infrastructure.**

2 **(b) The following members appointed by the Governor:**

3 **(A) One member from the Department of State Police;**

4 **(B) One member from the Office of Emergency Management;**

5 **(C) One member from the State Forestry Department;**

6 **(D) One member from the Department of Corrections;**

7 **(E) One member from the Department of Transportation;**

8 **(F) One member from the Oregon Department of Administrative Services;**

9 **(G) One member from the Department of Human Services;**

10 **(H) One member from the Oregon Military Department;**

11 **(I) One member from the Department of Public Safety Standards and Training;**

12 **(J) One member of an Indian tribe as defined in ORS 97.740;**

13 **(K) One member from a nonprofit professional organization devoted to the enhancement**  
14 **of public safety communications systems; and**

15 **(L) One member from the public.**

16 **(c) The following members appointed by the Governor with the concurrence of the Pres-**  
17 **ident of the Senate and the Speaker of the House of Representatives:**

18 **(A) One member from the Oregon Fire Chiefs' Association;**

19 **(B) One member from the Oregon Association Chiefs of Police;**

20 **(C) One member from the Oregon State Sheriffs' Association;**

21 **(D) One member from the Association of Oregon Counties;**

22 **(E) One member from the League of Oregon Cities; and**

23 **(F) One member from the Special Districts Association of Oregon.**

24 **(2) Each agency or organization identified in subsection (1)(b)(A) to (I) and (1)(c) of this**  
25 **section shall recommend a person from the agency or organization for membership on the**  
26 **council.**

27 **(3) Members of the council are not entitled to compensation, but in the discretion of the**  
28 **Director of the Office of Emergency Management may be reimbursed from funds available**  
29 **to the Office of Emergency Management for actual and necessary travel and other expenses**  
30 **incurred by them in the performance of their official duties in the manner and amount pro-**  
31 **vided in ORS 292.495.**

32 **(4) Members of the Legislative Assembly appointed to the council are nonvoting members**  
33 **and may act in an advisory capacity only.**

34 **SECTION 4. The State Interoperability Executive Council created under section 3 of this**  
35 **2005 Act shall:**

36 **(1) Work with public safety agencies in the state to develop a Public Safety Wireless**  
37 **Infrastructure Replacement Plan as provided under section 2 of this 2005 Act.**

38 **(2) Develop an Oregon Interoperable Communication Plan. The goal of the plan shall be**  
39 **to achieve statewide interoperability within six years of the effective date of this 2005 Act.**  
40 **In developing the plan, the council shall:**

41 **(a) Recommend strategies to improve wireless interoperability among state and local**  
42 **public safety agencies;**

43 **(b) Develop standards to promote consistent development of existing and future wireless**  
44 **communications infrastructures;**

45 **(c) Identify immediate short-term technological and policy solutions to tie existing**

1 wireless communications infrastructures together into an interoperable communications  
2 system;

3 (d) Develop long-term technological and policy recommendations to establish a statewide  
4 public safety radio system to improve emergency response and day-to-day public safety op-  
5 erations; and

6 (e) Develop recommendations for legislation and for the development of state and local  
7 policies to promote wireless interoperability in Oregon.

8 (3) Approve, subject to approval by the Director of the Office of Emergency Management,  
9 investments by the State of Oregon in public safety communications systems.

10 (4) Coordinate state and local activities related to obtaining federal grants for support  
11 of interoperability.

12 (5) Develop and provide technical assistance, training and, if requested, appropriate dis-  
13 pute resolution services to state and local agencies responsible for implementation of the  
14 Oregon Interoperable Communication Plan.

15 (6) Report, in the manner required by ORS 192.245, to the Legislative Assembly on or  
16 before February 1 of each odd-numbered year on the development of the Oregon Interoper-  
17 able Communication Plan and the council's other activities.

18 (7) Adopt rules necessary to carry out its duties and powers.

19 **SECTION 5.** (1) The Director of the Office of Emergency Management shall advise the  
20 State Interoperability Executive Council on the implementation of the Oregon Interoperable  
21 Communication Plan and coordinate interoperability among all state agencies.

22 (2) State agencies that own or operate public safety communications systems shall co-  
23 ordinate their efforts and investments to achieve the statewide interoperability goal set by  
24 the council and implement the Oregon Interoperable Communication Plan approved by the  
25 director.

26 **SECTION 6.** Notwithstanding any other law limiting expenditures, the limitation on  
27 expenditures established by section 2, chapter \_\_, Oregon Laws 2005 (Enrolled House Bill  
28 5167), for the biennium beginning July 1, 2005, as the maximum limit for payment of expenses  
29 from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery  
30 funds and federal funds, collected or received by the Office of Emergency Management is  
31 increased by \$382,000 for the purpose of carrying out the provisions of sections 2, 3, 4 and 5  
32 of this 2005 Act.

33 **SECTION 7.** (1) The Interagency Hazard Communication Council is abolished. On the  
34 operative date of this section, the tenure of the members of the council ceases.

35 (2) All the duties, functions and powers of the Interagency Hazard Communication  
36 Council are imposed upon, transferred to and vested in the office of the State Fire Marshal.

37 (3) The chairperson of the Interagency Hazard Communication Council shall deliver to  
38 the office of the State Fire Marshal all records and property within the jurisdiction of the  
39 council that relate to the duties, functions and powers transferred by this section.

40 **SECTION 8.** (1) The Oregon Homeland Security Council is created within the Office of  
41 Emergency Management. The council shall:

42 (a) Receive briefings on security matters for which the office is responsible at least an-  
43 nually from state agencies and organizations as determined by the council; and

44 (b) Advise state agencies with responsibility for security matters on the future direction  
45 of the office's planning, preparedness, response and recovery activities.

1       **(2) The membership of the council shall consist of:**

2       **(a) Four members from the Legislative Assembly appointed as follows:**

3       **(A) Two members from the Senate appointed by the President of the Senate; and**

4       **(B) Two members from the House of Representatives appointed by the Speaker of the**  
5 **House of Representatives;**

6       **(b) The Governor;**

7       **(c) The Adjutant General;**

8       **(d) The Superintendent of State Police;**

9       **(e) The Director of the Office of Emergency Management; and**

10       **(f) Additional members appointed by the Governor who the Governor determines neces-**  
11 **sary to fulfill the functions of the council, including state agency heads, elected state offi-**  
12 **cial, local government officials, a member of the governing body of an Indian tribe and**  
13 **representatives from the private sector.**

14       **(3) Each member appointed to the council under subsection (2)(a) and (f) of this section**  
15 **serves at the pleasure of the appointing authority. The membership of a public official ceases**  
16 **upon termination of the office held by the official at the time of appointment to the council.**

17       **(4) The Governor shall be chairperson of the council.**

18       **(5) Members of the council are not entitled to compensation but, at the discretion of the**  
19 **director, may be reimbursed, in the manner and amount provided in ORS 292.495, from funds**  
20 **available to the office for actual and necessary travel and other expenses incurred in the**  
21 **performance of their duties as members of the council.**

22       **SECTION 9.** ORS 401.025 is amended to read:

23       401.025. As used in ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to 401.580, unless the  
24 context requires otherwise:

25       (1) "Beneficiary" has the meaning given that term in ORS 656.005.

26       (2) "Commission" means the Seismic Safety Policy Advisory Commission established under ORS  
27 401.337.

28       [(3) "*Director*" means the Director of the Office of Emergency Management.]

29       [(4) (3) "Emergency" includes any [*man-made*] **human caused** or natural event or circumstance  
30 causing or threatening loss of life, injury to person or property, human suffering or financial loss,  
31 and includes, but is not limited to, fire, explosion, flood, severe weather, drought, earthquake,  
32 volcanic activity, spills or releases of oil or hazardous material as defined in ORS 466.605, contam-  
33 ination, utility or transportation emergencies, disease, blight, infestation, crisis influx of migrants  
34 unmanageable by the county, civil disturbance, riot, sabotage and war.

35       [(5) (4) "Emergency management agency" means an organization created and authorized under  
36 ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to 401.580 by the state, county or city to  
37 provide for and assure the conduct and coordination of functions for comprehensive emergency  
38 program management.

39       [(6) (5) "Emergency program management" includes all the tasks and activities necessary to  
40 provide, support and maintain the ability of the emergency services system to prevent or reduce the  
41 impact of emergency or disaster conditions which includes, but is not limited to, coordinating de-  
42 velopment of plans, procedures, policies, fiscal management, coordination with nongovernmental  
43 agencies and organizations, providing for a coordinated communications and alert and notification  
44 network and a public information system, personnel training and development and implementation  
45 of exercises to routinely test the emergency services system.

1 [(7)] (6) "Emergency program manager" means the person administering the emergency man-  
2 agement agency of a county or city.

3 [(8)] (7) "Emergency service agency" means an organization within a local government which  
4 performs essential services for the public's benefit prior to, during or following an emergency. This  
5 includes, but is not limited to, organizational units within local governments, such as law enforce-  
6 ment, fire control, health, medical and sanitation services, public works and engineering, public in-  
7 formation and communications.

8 [(9)] (8) "Emergency service worker" means an individual who, under the direction of an emer-  
9 gency service agency or emergency management agency, performs emergency services and:

10 (a) Is a registered volunteer or independently volunteers to serve without compensation and is  
11 accepted by the [office] **Office of Emergency Management** or the emergency management agency  
12 of a county or city; or

13 (b) Is a member of the Oregon State Defense Force acting in support of the emergency services  
14 system.

15 [(10)] (9) "Emergency services" includes those activities provided by state and local government  
16 agencies with emergency operational responsibilities to prepare for and carry out any activity to  
17 prevent, minimize, respond to or recover from an emergency. These activities include, without limi-  
18 tation, coordination, preparedness planning, training, interagency liaison, fire fighting, oil or haz-  
19 ardous material spill or release cleanup as defined in ORS 466.605, law enforcement, medical, health  
20 and sanitation services, engineering and public works, search and rescue activities, warning and  
21 public information, damage assessment, administration and fiscal management, and those measures  
22 defined as "civil defense" in section 3 of the Act of January 12, 1951, P.L. 81-920 (50 U.S.C. 2252).

23 [(11)] (10) "Emergency services system" means that system composed of all agencies and or-  
24 ganizations involved in the coordinated delivery of emergency services.

25 [(12)] (11) "Injury" means any personal injury sustained by an emergency service worker by  
26 accident, disease or infection arising out of and in the course of emergency services or death re-  
27 sulting proximately from the performance of emergency services.

28 [(13)] (12) "Local government" means any governmental entity authorized by the laws of this  
29 state.

30 [(14)] (13) "Major disaster" means any event defined as a "major disaster" [by the Act of May  
31 22, 1974, P.L. 93-288] **under 42 U.S.C. 5122(2)**.

32 [(15)] "Office" means the Office of Emergency Management of the Department of State Police.]

33 [(16)] (14) "Oregon emergency management plan" means the state emergency preparedness op-  
34 erations and management plan. The Office of Emergency Management is responsible for coordinating  
35 emergency planning with government agencies and private organizations, preparing the plan for the  
36 Governor's signature, and maintaining and updating the plan as necessary.

37 [(17)] (15) "Search and rescue" means the acts of searching for, rescuing or recovering, by  
38 means of ground or marine activity, any person who is lost, injured or killed while out of doors.  
39 However, "search and rescue" does not include air activity in conflict with the activities carried  
40 out by the Oregon Department of Aviation.

41 [(18)] (16) "Sheriff" means the chief law enforcement officer of a county.

42 **SECTION 10.** ORS 401.270 is amended to read:

43 401.270. The Director of the Office of Emergency Management shall be responsible for coordi-  
44 nating and facilitating emergency planning, preparedness, response and recovery activities with the  
45 state and local emergency services agencies and organizations, and shall, with the approval of the

1 Superintendent of State Police or as directed by the Governor:

2 (1) Make rules that are necessary and proper for the administration and implementation of ORS  
3 401.015 to 401.105, 401.260 to 401.325, 401.355 to 401.580 and 401.706;

4 (2) Coordinate the activities of all public and private organizations specifically related to pro-  
5 viding emergency services within this state;

6 (3) Maintain a cooperative liaison with emergency management agencies and organizations of  
7 local governments, other states and the federal government;

8 (4) Have such additional authority, duties and responsibilities authorized by ORS 401.015 to  
9 401.105, 401.260 to 401.325 and 401.355 to 401.580 or as may be directed by the Governor;

10 (5) Administer grants relating to emergency program management and emergency services for  
11 the state;

12 (6) Provide for and staff a State Emergency Operations Center to aid the Governor and the Of-  
13 fice of Emergency Management in the performance of duties under ORS 401.015 to 401.105, 401.260  
14 to 401.325, 401.355 to 401.580 and 401.706;

15 (7) Serve as the Governor's authorized representative for coordination of certain response ac-  
16 tivities and managing the recovery process;

17 (8) Establish training and professional standards for local emergency program management per-  
18 sonnel;

19 (9) Establish task forces and advisory groups to assist the office in achieving mandated respon-  
20 sibilities; [and]

21 (10) Enforce compliance requirements of federal and state agencies for receiving funds and  
22 conducting designated emergency functions[.]; **and**

23 **(11) Coordinate the activities of state and local governments to enable state and local**  
24 **governments to work together during domestic incidents as provided in the National Incident**  
25 **Management System established by the Homeland Security Presidential Directive 5 of Feb-**  
26 **ruary 28, 2003.**

27 **SECTION 11.** ORS 401.305 is amended to read:

28 401.305. (1) Each county of this state shall, and each city may, establish an emergency man-  
29 agement agency which shall be directly responsible to the executive officer or governing body of the  
30 county or city.

31 (2) The executive officer or governing body of each county and any city which participates shall  
32 appoint an emergency program manager who shall have responsibility for the organization, admin-  
33 istration and operation of such agency, subject to the direction and control of the county or city.

34 (3) The local governing bodies of counties and cities that have both city and county emergency  
35 management programs shall jointly establish policies which provide direction and identify and define  
36 the purpose and roles of the individual emergency management programs, specify the responsibilities  
37 of the emergency program managers and staff and establish lines of communication, succession and  
38 authority of elected officials for an effective and efficient response to emergency conditions.

39 (4) Each emergency management agency shall perform emergency program management func-  
40 tions within the territorial limits of the county or city and may perform such functions outside the  
41 territorial limits as required under any mutual aid or cooperative assistance agreement or as au-  
42 thorized by the county or city.

43 (5) [Such] **The** emergency management functions shall include, as a minimum[,]:

44 (a) Coordination of the planning activities necessary to prepare and maintain a current emer-  
45 gency operations plan, management and maintenance of emergency operating facilities from which

1 elected and appointed officials can direct emergency and disaster response activities[, *and*];

2 (b) Establishment of an incident command structure for management of a coordinated response  
3 by all local emergency service agencies; **and**

4 (c) **Coordination with the Office of Emergency Management to integrate effective prac-**  
5 **tices in emergency preparedness and response as provided in the National Incident Manage-**  
6 **ment System established by the Homeland Security Presidential Directive 5 of February 28,**  
7 **2003.**

8 **SECTION 12.** ORS 401.515 is amended to read:

9 401.515. (1) During the existence of an emergency, the state and any local government, any  
10 agent thereof or emergency service worker engaged in any emergency services activity, while com-  
11 plying with or attempting to comply with ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to  
12 401.580 or any rule [*promulgated*] **adopted** under those sections, [*shall*] **is** not, except in cases of  
13 willful misconduct, gross negligence or bad faith, [*be*] liable for the death or injury of any person,  
14 or damage or loss of property, as a result of that activity.

15 (2) There shall be no liability on the part of a person who owns or maintains any building or  
16 premises which has been designated by any emergency management agency or emergency service  
17 agency or any public body or officer of this state or the United States as a fallout shelter or a  
18 shelter from destructive operations or attacks by enemies of the United States for the death of or  
19 injury to any individual or damage to or loss of property while in or upon the building or premises  
20 as a result of the condition of the building or premises or as a result of any act or omission, except  
21 willful misconduct, gross negligence or bad faith of such person or the servants, agents or employees  
22 of the person when the dead or injured individual entered or went on or into the building or prem-  
23 ises for the purpose of seeking refuge therein during or in anticipation of destructive operations or  
24 attacks by enemies of the United States or during tests ordered by lawful authority.

25 (3) The provisions of ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to 401.580 [*shall*]  
26 **do** not affect the right of any person to receive benefits or compensation to which the person would  
27 otherwise be entitled under ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to 401.580, under  
28 ORS chapter 656, under any pension or retirement law or under any act of Congress.

29 (4) Emergency service workers, in carrying out, complying with or attempting to comply with  
30 any order or rule issued under ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to 401.580 or  
31 any local ordinance, or performing any of their authorized functions or duties or training for the  
32 performance of their authorized functions or duties, shall have the same degree of responsibility for  
33 their actions and enjoy the same immunities as officers and employees of the state and its local  
34 governments performing similar work.

35 (5) [*Nothing in*] This section [*shall*] **does not** excuse any governmental agency from liability for  
36 intentional confiscation or intentional destruction of private property.

37 (6) [*There shall be no liability incurred by any*] A person who complies with [*an*] **a lawful** order  
38 of the Governor under ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to 401.580 **incurs no**  
39 **liability** for damages resulting from compliance.

40 (7)(a) **An officer, employee or agent of the federal government or another state, or an**  
41 **agency or political subdivision of another state, who is accepted by the Office of Emergency**  
42 **Management to act as an emergency service worker is an agent of this state for the purposes**  
43 **of this section and ORS 30.260 to 30.300.**

44 (b) **An officer, employee or agent of the federal government or another state, or an**  
45 **agency or political subdivision of another state, who is accepted by a local government**



1 **emergency management agency to act as an emergency service worker is an agent of the**  
2 **local government emergency management agency for the purposes of this section and ORS**  
3 **30.260 to 30.300.**

4 **SECTION 13.** ORS 453.317 is amended to read:

5 453.317. (1) The State Fire Marshal shall develop a hazardous substance survey and distribute  
6 the survey to employers in this state. The survey shall request the following information from such  
7 employers:

8 (a) The identity and hazard classification of the hazardous substance as listed on a material  
9 safety data sheet;

10 (b) The approximate amount and location of the hazardous substance;

11 (c) The name and telephone number of personnel qualified to give technical, onsite information  
12 about hazardous substances; and

13 (d) Any procedures established by the employer for the control of hazardous substances in the  
14 event of an emergency.

15 (2) In addition to the information to be provided under subsection (1) of this section, the State  
16 Fire Marshal may by rule establish additional requirements for obtaining hazardous substance in-  
17 formation the State Fire Marshal considers necessary. All rules adopted under this subsection shall  
18 be adopted after public hearing in accordance with ORS chapter 183.

19 *[(3) Before the development of the initial hazardous substance survey, the State Fire Marshal shall*  
20 *consult with the Interagency Hazard Communication Council established under ORS 453.510 regard-*  
21 *ing:]*

22 *[(a) Interagency cooperation in the development of the hazardous substance survey; and]*

23 *[(b) Interagency access to data collected as the result of ORS 453.307 to 453.414 and 476.030.]*

24 *[(4)]* (3) Any employer receiving a hazardous substance survey shall complete the hazardous  
25 substance survey and return it to the State Fire Marshal not later than March 1 of each year or  
26 within 60 days after the date the State Fire Marshal mails the hazardous substance survey, which-  
27 ever is later.

28 *[(5)]* (4) The State Fire Marshal shall update the hazardous substance survey once every 12  
29 months.

30 *[(6)]* (5) An employer shall update and return the hazardous substance survey on or before  
31 March 1 of each year or within 60 days after the date the State Fire Marshal mails the survey,  
32 whichever is later, or an employer shall update the hazardous substance survey whenever any sub-  
33 stantive information required to be provided changes, whichever situation occurs most often.

34 *[(7)]* (6) The Director of the Department of Consumer and Business Services shall participate in  
35 the development and updating of the hazardous substance survey and shall have access to the data  
36 included in the survey.

37 *[(8)]* (7) The State Fire Marshal may conduct an inspection to confirm the validity of a hazard-  
38 ous substance survey required by this section. The inspection shall be conducted according to the  
39 provisions of ORS 476.150.

40 **SECTION 14.** ORS 453.520 is amended to read:

41 453.520. (1) The Governor shall designate the *[Interagency Hazard Communication Council]* **of-**  
42 **office of the State Fire Marshal** as the state emergency response commission as required by the  
43 Emergency Planning and Community Right-to-Know Act of 1986 *[(P.L. 99-499)]* **(42 U.S.C. 11001 et**  
44 **seq.)**.

45 **(2) The office shall:**

1 (a) Provide, in a timely manner, advice to a state agency that is required to consult with  
2 the office about programs that involve hazardous materials or hazardous substances; and

3 (b) Undertake all duties of a state emergency response commission required by the  
4 Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11001 et seq.) in-  
5 cluding but not limited to:

6 (A) Designating emergency planning districts;

7 (B) Establishing local emergency planning committees within emergency planning dis-  
8 tricts and appoint members to the local emergency planning committees; and

9 (C) Providing comments on local emergency plans.

10 **SECTION 15.** ORS 453.825 is amended to read:

11 453.825. (1) The Department of Transportation shall coordinate development of a single plan and  
12 procedure for the regulation of the transportation of hazardous material and waste and radioactive  
13 material and waste in Oregon.

14 (2) In developing the plan under subsection (1) of this section, the Department of Transportation  
15 shall cooperate with the [*Interagency Hazard Communication Council created under ORS 453.510*]  
16 **office of the State Fire Marshal.**

17 (3) As used in this section, “hazardous waste” has the meaning given that term in ORS 466.005.

18 **SECTION 16.** ORS 466.620 is amended to read:

19 466.620. In accordance with the applicable provisions of ORS chapter 183, the Environmental  
20 Quality Commission shall adopt an oil and hazardous material emergency response master plan  
21 consistent with the plan adopted by the [*Interagency Hazard Communications Council pursuant to the*  
22 *provisions of ORS 453.317 (1) to (6), 453.510,*] **Department of Transportation under ORS 453.825**  
23 **and 453.835,** and after consultation with the [*Interagency Hazard Communications Council*] **office of**  
24 **the State Fire Marshal,** the Oregon State Police, the Oregon Fire Chiefs Association and any other  
25 appropriate agency or organization.

26 **SECTION 17.** ORS 453.307 is amended to read:

27 453.307. As used in ORS 453.307 to 453.414:

28 (1) “Community right to know regulatory program” or “local program” means any law, rule,  
29 ordinance, regulation or charter amendment established, enforced or enacted by a local government  
30 that requires an employer to collect or report information relating to the use, storage, release,  
31 possession or composition of hazardous substances and toxic substances if a primary intent of the  
32 law, rule, ordinance, regulation or charter amendment is the public distribution of the information.

33 (2) “Emergency service personnel” includes those entities providing emergency services as de-  
34 fined in ORS 401.025 [(8) and (10)].

35 (3) “Employer” means:

36 (a) Any person operating a facility that is included in one or more of the 21 standard industrial  
37 classification categories in Appendix B of the Natural Resources Defense Council v. Train Consent  
38 Decree of June 8, 1976 (8 E.R.C. 2120); or

39 (b) Any person operating a facility designated by the State Fire Marshal.

40 (4) “Fire district” means any agency having responsibility for providing fire protection services.

41 (5) “Hazardous substance” means:

42 (a) Any substance designated as hazardous by the Director of the Department of Consumer and  
43 Business Services or by the State Fire Marshal;

44 (b) Any substance for which a material safety data sheet is required by the Director of the De-  
45 partment of Consumer and Business Services under ORS 654.035 and which appears on the list of

1 Threshold Limit Values for Chemical Substances and Physical Agents in the Work Environment by  
2 the American Conference of Governmental Industrial Hygienists; or

3 (c) Radioactive waste and material as defined in ORS 469.300 and radioactive substance as de-  
4 fined in ORS 453.005.

5 (6) "Health professional" means a physician as defined in ORS 677.010, registered nurse, indus-  
6 trial hygienist, toxicologist, epidemiologist or emergency medical technician.

7 (7) "Law enforcement agency" has the meaning given that term in ORS 181.010.

8 (8) "Local government" means a city, town, county, regional authority or other political subdivi-  
9 sion of this state.

10 (9) "Person" includes individuals, corporations, associations, firms, partnerships, joint stock  
11 companies, public and municipal corporations, political subdivisions, the state and any agency  
12 thereof, and the federal government and any agency thereof.

13 (10) "Trade secret" has the meaning given that term in ORS 192.501 (2).

14 **SECTION 18.** ORS 654.196 is amended to read:

15 654.196. (1) The Director of the Department of Consumer and Business Services may by rule  
16 require employers to provide information to employees relating to the contents of piping systems.  
17 The rules shall include, but need not be limited to requirements for:

18 (a) Labeling piping systems to provide notice about hazardous chemicals contained in the sys-  
19 tem; and

20 (b) Labeling a piping system that uses asbestos as a pipe insulation material.

21 (2) Every employer shall post a sign in the location where notices to employees are normally  
22 posted to inform employees that they have a right under this section and ORS 453.317 [(7)] (6) to  
23 information from the employer regarding hazardous substances found in the place of employment.

24 (3) The sign required under subsection (2) of this section shall include, but need not be limited  
25 to, the following information and shall be substantially in the following form:

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26  
27  
28 **NOTICE TO EMPLOYEES**

29 You have a right under state law to information about hazardous substances found in your place  
30 of employment. For this information, contact your employer.

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31  
32  
33 (4) Notwithstanding any other provision of this chapter or ORS 192.410 to 192.505, an employer  
34 may withhold the precise chemical name of a chemical only if the employer can substantiate that:

35 (a) The chemical name is a trade secret with commercial value that can be protected only by  
36 limiting disclosure; and

37 (b) The commercial value of the product cannot be preserved by withholding the processes,  
38 mixture percentages or other aspects of the production of the product instead of its chemical con-  
39 stituents.

40 (5) A trade secret designation claimed under subsection (4) of this section may be subject to  
41 yearly review.

42 (6) Notwithstanding any other provision of this chapter or ORS 192.410 to 192.505, if a treating  
43 physician or health professional concludes that the chemical identity of a hazardous chemical used  
44 in an employer's place of employment is necessary to prescribe necessary treatment for a patient,  
45 the employer may not require the physician or health professional to sign a confidentiality agree-

1 ment as a condition to the release of the information by the employer, manufacturer or importer.

2 **SECTION 19. ORS 453.510, 453.517 and 453.527 are repealed.**

3 **SECTION 20. Section 7 of this 2005 Act and the repeal of ORS 453.510, 453.517 and 453.527**  
4 **by section 19 of this 2005 Act become operative on January 1, 2006.**

5 **SECTION 21. This 2005 Act being necessary for the immediate preservation of the public**  
6 **peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect**  
7 **on its passage.**

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