

House Bill 2207

Sponsored by Representative MCKEOWN, Senator ROBLAN; Representatives BOONE, GOMBERG, KRIEGER, LIVELY, WITT, Senator JOHNSON (Pre-session 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 **as introduced**.

Requires vessels with empty ballast tanks to undergo saltwater flushing of empty ballast tanks before vessels enter waters of this state.

Directs civil penalties collected under ballast water laws to be deposited in Invasive Species Control Account to fund invasive species eradication and control efforts by Invasive Species Council.

A BILL FOR AN ACT

1
2 Relating to ballast water; creating new provisions; and amending ORS 783.625, 783.630, 783.635 and
3 783.992.

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

5 **SECTION 1.** ORS 783.625 is amended to read:

6 783.625. As used in ORS 783.625 to 783.640, unless the context requires otherwise:

7 (1) "Ballast water" means any water used to manipulate the trim and stability of a vessel.

8 (2) "Cargo vessel" means a ship in commerce that is equipped with ballast tanks, other than a
9 tank vessel or a vessel used solely for commercial fish harvesting, of 300 gross tons or more.

10 (3) "Coastal exchange" means exchanging the ballast water taken onboard at a North American
11 coastal port at a distance of at least 50 nautical miles from land and at a depth of at least 200 me-
12 ters.

13 (4) "Department" means the Department of Environmental Quality.

14 (5) **"Empty ballast tank" means a ballast tank of a vessel that has been discharged of**
15 **ballast water from a voyage and, as a result, has only unpumpable residual ballast water and**
16 **sediment remaining in the ballast tank.**

17 [(5)] (6) "Oil" means oil, gasoline, crude oil, fuel oil, diesel oil, lubricating oil, oil sludge, oil
18 refuse and any other petroleum related product.

19 [(6)] (7) "Open sea exchange" means a replacement of ballast water that occurs in an area no
20 less than 200 nautical miles from any shore.

21 [(7)] (8) "Passenger vessel" means a ship of 300 gross tons or more carrying passengers for
22 compensation.

23 (9) **"Saltwater flushing" means the process of adding ocean water to empty ballast tanks,**
24 **allowing the added ocean water to mix with the unpumpable residual ballast water and**
25 **sediment in the tanks through the motion of the vessel, and discharging the mixed water.**

26 [(8)] (10) "Sediment" means any matter that settles out of ballast water.

27 [(9)] (11) "Ship" means any boat, ship, vessel, barge or other floating craft of any kind.

28 [(10)] (12) "Tank vessel" means a ship that is constructed or adapted to carry oil in bulk as
29 cargo or cargo residue other than:

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 (a) A vessel carrying oil in drums, barrels or other packages;

2 (b) A vessel carrying oil as fuel or stores for that vessel; or

3 (c) An oil spill response barge or vessel.

4 [(11)] (13) "Trip" means travel to an appointed destination and return travel to the point of origin within the waters of this state.

6 [(12)] (14) "Vessel" means a tank vessel, cargo vessel or passenger vessel.

7 [(13)] (15) "Voyage" means any transit by a vessel destined for any Oregon port.

8 [(14)] (16) "Waters of this state" means natural waterways including all tidal and nontidal bays, intermittent streams, constantly flowing streams, lakes, wetlands and other bodies of water in this state, navigable and nonnavigable, including that portion of the Pacific Ocean that is in the boundaries of Oregon.

12 **SECTION 2.** ORS 783.630 is amended to read:

13 783.630. (1) ORS 783.625 to 783.640 apply to all vessels carrying ballast water **from a voyage** into the waters of this state [*from a voyage*] **and all vessels described in section 5 of this 2015 Act**, except a vessel that:

16 (a) Discharges ballast water only at the location where the ballast water originated, if the ballast water is not mixed with ballast water from areas other than open sea waters;

18 (b) Does not discharge ballast water in waters of this state;

19 (c) Traverses only the internal waters of this state;

20 (d) Traverses only the territorial sea of the United States and does not enter or depart an Oregon port or navigate the waters of this state;

22 (e) Discharges ballast water that originated solely from waters located between the parallel 40 degrees north latitude and the parallel 50 degrees north latitude on the west coast of North America; or

25 (f) Discharges ballast water that has been treated to remove organisms in a manner that is approved by the United States Coast Guard.

27 (2) ORS 783.625 to 783.640 do not authorize the discharge of oil or noxious liquid substances in a manner prohibited by state, federal or international laws or regulations. Ballast water containing oil or noxious liquid substances shall be discharged in accordance with the requirements applicable to those substances.

31 (3) Nothing in this section:

32 (a) Requires an open sea or coastal exchange if the owner or operator in charge of a vessel determines that performing an open sea or coastal exchange would threaten the safety or stability of the vessel or the safety of the vessel's crew or passengers because of any extraordinary condition, including but not limited to adverse weather, vessel design limitations or equipment failure.

36 (b) Exempts the owner or operator in charge of a vessel from the reporting requirements under ORS 783.640, whether or not ballast water is carried or discharged in the waters of this state.

38 **SECTION 3.** ORS 783.635 is amended to read:

39 783.635. (1) Except as authorized by this section, the discharge of ballast water in the waters of this state is prohibited.

41 (2) An owner or operator of a vessel may discharge ballast water in the waters of this state:

42 (a) If the owner or operator has conducted a complete open sea or coastal exchange of ballast water prior to entering the waters of this state. The open sea or coastal exchange must be performed using either of the following methods:

45 (A) Flow-through exchange. A flow-through exchange occurs when an amount of ocean water

1 equal to or exceeding three times the capacity of the vessel's ballast [*water*] tank is pumped into
 2 an opening in the ballast [*water*] tank while the existing ballast water is discharged through another
 3 opening.

4 (B) An empty and refill exchange. An empty and refill exchange occurs when a ballast [*water*]
 5 tank is pumped empty to the point that the pump loses suction and then is refilled with ocean water.

6 (b) Without performing an open sea exchange or a coastal exchange of ballast water if:

7 (A)(i) The owner or operator reasonably believes that an exchange would threaten the safety
 8 of the vessel; or

9 (ii) The exchange is not feasible due to vessel design limitations or equipment failure; and

10 (B) The vessel discharges only the amount of ballast water that is operationally necessary.

11 (c) If the ballast water is discharged in a manner consistent with standards and procedures
 12 adopted by the Environmental Quality Commission under subsection (4) of this section.

13 (3) An owner or operator who discharges ballast water in the waters of this state under sub-
 14 section (2)(b) of this section is subject to the reporting requirements under ORS 783.640.

15 (4)(a) The Environmental Quality Commission may adopt by rule standards and procedures that
 16 the commission considers necessary to carry out the provisions of ORS 783.625 to 783.640. The
 17 standards and procedures must minimize the risk of introducing aquatic invasive species into the
 18 waters of this state and must be based on the availability of treatment technology. Rules adopted
 19 under this subsection include, but are not limited to:

20 (A) Standards for the discharge of ballast water into the waters of this state and appropriate
 21 timelines for the implementation of the standards. In adopting the standards, the commission shall
 22 consider the extent to which treatment technology is feasible, practicable and commercially avail-
 23 able, or expected to be available, by the proposed implementation timelines.

24 (B) Emergency response procedures for managing high-risk ballast water. The rules must define
 25 high-risk ballast water in light of the source of the water and other applicable factors. The proce-
 26 dures must establish notification and consultation requirements, as well as feasible alternative
 27 ballast water management strategies.

28 (C) Procedures for implementing alternative ballast water management strategies for the ex-
 29 emptions specified in subsection (2)(b) of this section.

30 **(D) Procedures for implementing alternative ballast water management strategies for**
 31 **vessels with empty ballast tanks that enter the waters of this state but have not complied**
 32 **with section 5 of this 2015 Act.**

33 (b) To the extent practicable, the commission shall adopt rules under this subsection consistent
 34 with relevant rules adopted by the States of California and Washington.

35 **SECTION 4. Section 5 of this 2015 Act is added to and made a part of ORS 783.625 to**
 36 **783.640.**

37 **SECTION 5. (1)(a) The owner or operator of a vessel with empty ballast tanks that will**
 38 **enter the waters of this state must, prior to entering the waters of this state, conduct a**
 39 **saltwater flushing of the empty ballast tanks in an area no less than 200 nautical miles from**
 40 **any shore.**

41 **(b) The residual ballast water remaining in the ballast tanks after saltwater flushing**
 42 **must have a salinity greater than or equal to 30 parts per thousand or a salinity concen-**
 43 **tration equal to the ambient salinity of the location where the vessel took on the added ocean**
 44 **water. In order to conduct saltwater flushing, a vessel should take on as much ocean water**
 45 **into each ballast tank as is safe for the vessel and crew.**

1 **(2) This section does not apply to empty ballast tanks that underwent a complete open**
2 **sea exchange prior to discharging ballast water from a voyage at another port and are empty**
3 **for arrival in the waters of this state if the vessel's ballast water log or record book contains**
4 **sufficient detail to show that the unpumpable residual ballast water in the empty ballast**
5 **tanks has a salinity greater than or equal to 30 parts per thousand.**

6 **SECTION 6.** ORS 783.992 is amended to read:

7 783.992. (1) As specified in ORS 468.140, the Director of the Department of Environmental
8 Quality may impose a civil penalty on the owner or operator of a vessel for failure to comply with
9 the requirements of ORS 783.625 to 783.640.

10 **(2) Any civil penalty collected under this section shall be deposited in the Invasive Species**
11 **Control Account for use by the Invasive Species Council in carrying out the purposes of ORS**
12 **570.810.**

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