

AN ACT

SB 1079

Relating to fuel; creating new provisions; amending ORS 319.520, 319.550, 319.665 and 646.913; and declaring an emergency.

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

**SECTION 1.** ORS 319.520 is amended to read:

319.520. As used in ORS 319.510 to 319.880, unless the context clearly indicates a different meaning:

**(1) “Cardlock card” means a fuel card:**

**(a) Capable of generating an electronic invoice or electronic statement that includes the information required by ORS 319.671 and the applicable fuel tax amount;**

**(b) Issued for a specific vehicle, a specific piece of equipment or a group of equipment;**

**(c) That includes the qualifying information, as designated by the Department of Transportation by rule, that is printed on the electronic invoice or electronic statement;**

**(d) That allows the tax status of the cardlock card to be indicated on the electronic invoice or electronic statement and includes state tax as a separate item on the invoice or statement; and**

**(e) That allows a cardlock card issuer to generate a statement recording, by fuel type, gallons of fuel purchased for domestic and foreign customers each month.**

[(1)] **(2) “Combined weight” means the total empty weight of all vehicles in a combination plus the total weight of the load carried on that combination of vehicles.**

[(2)] **(3) “Delinquent” means having failed to pay a tax or penalty within the time provided by law.**

[(3)] **(4) “Department” means the Department of Transportation.**

**(5) “Domestic customer” means a customer making a purchase at a nonretail facility owned by the cardlock card issuer.**

**(6) “Foreign customer” means a customer making a purchase at a nonretail facility owned by a seller other than the cardlock card issuer.**

[(4)] **(7) “Fuel” means any combustible gas, liquid or material of a kind used for the generation of power to propel a motor vehicle on the highways except motor vehicle fuel as defined in ORS 319.010.**

[(5)] **(8) “Highway” means every way, thoroughfare and place, of whatever nature, open to the use of the public for the purpose of vehicular travel.**

[(6)] **(9) “Light weight” means the weight of a vehicle when fully equipped for moving over the highway.**

[(7)] **(10) “Motor vehicle” means every self-propelled vehicle operated on the highway, except an implement of husbandry used in agricultural operations and only incidentally operated or moved upon the highway.**

**(11) “Nonretail facility” means:**

**(a) An unattended facility accessible only by cardlock card and not associated with a retail facility; or**

**(b) An unattended portion of a retail facility separate from the retail operations and**

**accessible only by cardlock card.**

[(8)] (12) “Person” means any individual, firm, copartnership, joint venture, association, corporation, trust, receiver or any group or combination acting as a unit.

[(9)] (13) “Seller” means:

(a) A person that sells fuel to a user; or

(b) If the fuel is dispensed at a nonretail facility [*as defined in ORS 480.310*], the person that owns the user’s accounts and bills the user for fuel purchased at a nonretail facility.

[(10)] (14) “To sell fuel for use in a motor vehicle” means to dispense or place fuel for a price into a receptacle on a motor vehicle, from which receptacle the fuel is supplied to propel the motor vehicle.

[(11)] (15) “To use fuel in a motor vehicle” means to receive into any receptacle on a motor vehicle, fuel to be consumed in propelling the motor vehicle on the highways of this state; and, if the fuel is received into the receptacle outside the taxing jurisdiction of the state, “to use fuel in a motor vehicle” means to consume in propelling the motor vehicle on the highways of this state.

**SECTION 2.** ORS 319.665 is amended to read:

319.665. (1) The seller of fuel for use in a motor vehicle shall collect the tax provided by ORS 319.530 at the time the fuel is sold, unless **one of the following situations applies**:

(a) The vehicle into which the seller delivers or places the fuel bears a valid permit or user’s emblem issued by the Department of Transportation[; *or*].

(b) The fuel is dispensed at a nonretail facility, [*as defined in ORS 480.310,*] in which case the seller shall collect any tax owed at the same time the seller collects the purchase price from the person to whom the fuel was dispensed at the nonretail facility. A seller is not required to collect the tax under this paragraph from a person who certifies to the seller that the use of the fuel is exempt from the tax imposed under ORS 319.530.

**(c) A cardlock card is used for purchase of the fuel at an attended portion of a retail facility equipped with a cardlock card reader, in which case the cardlock card issuer licensed in this state is responsible for collecting and remitting the tax unless the person making the purchase certifies to the seller that the use of the fuel is exempt from the tax imposed under ORS 319.530.**

**(2) If a cardlock card is used for purchase of fuel at an attended portion of a retail facility equipped with a cardlock card reader, the seller at the retail facility may deduct fuel purchases made with a cardlock card from the seller’s retail transactions if the seller provides the department with the following information:**

**(a) A monthly statement from a cardlock card issuer that details the cardlock card purchases at the retail facility; and**

**(b) A listing of cardlock card issuers and gallons of fuel purchased at the retail facility by the issuers’ customers.**

[(2)] (3) The department shall supply each seller of fuel for use in a motor vehicle with a chart which sets forth the tax imposed on given quantities of fuel.

**SECTION 3.** ORS 319.550 is amended to read:

319.550. [*No person shall*] **A person may not** use fuel in a motor vehicle in this state unless the person holds a valid user’s license, except that:

(1) A nonresident may use fuel in a motor vehicle not registered in Oregon for a period not exceeding 30 days without obtaining a user’s license or the emblem provided in ORS 319.600, if, for all fuel used in a motor vehicle in this state, the nonresident pays to a seller, at the time of the sale, the tax provided in ORS 319.530.

(2) *[No user's license is]* **A user's license is not** required for a person who uses fuel in a motor vehicle with a combined weight of 26,000 pounds or less if, for all fuel used in a motor vehicle in this state, the person pays to a seller, at the time of the sale, the tax provided in ORS 319.530.

(3) *[No user's license is]* **A user's license is not** required for a person who uses fuel as described in ORS 319.520 ~~[(4)]~~ **(7)** in the vehicles specified in subsection (4) of this section if the person pays to a seller, at the time of the sale, the tax provided in ORS 319.530.

(4) Subsection (3) of this section applies to the following vehicles:

- (a) Motor homes as defined in ORS 801.350.
- (b) Recreational vehicles as defined in ORS 446.003.

**SECTION 4.** ORS 646.913 is amended to read:

646.913. (1) **Except as provided in subsection (5) of this section,** a retail dealer, nonretail dealer or wholesale dealer may not sell or offer for sale gasoline unless the gasoline contains 10 percent ethanol by volume.

(2) Gasoline containing ethanol that is sold or offered for sale meets the requirements of this section if the gasoline, exclusive of denaturants and permitted contaminants, contains not less than 9.2 percent by volume of agriculturally derived, denatured ethanol that complies with the standards for ethanol adopted by the State Department of Agriculture.

(3) The department shall adopt standards for ethanol blended with gasoline sold in this state. The standards adopted shall require that the gasoline blended with ethanol:

- (a) Contains ethanol that is derived from agricultural or woody waste or residue;
  - (b) Contains ethanol denatured as specified in 27 C.F.R. parts 20 and 21;
  - (c) Complies with the volatility requirements specified in 40 C.F.R. part 80;
  - (d) Complies with or is produced from a gasoline base stock that complies with ASTM International specification D 4814;
  - (e) Is not blended with casinghead gasoline, absorption gasoline, drip gasoline or natural gasoline after it has been sold, transferred or otherwise removed from a refinery or terminal; and
  - (f) Contains ethanol that complies with ASTM International specification D 4806.
- (4) The department may review specifications adopted by ASTM International, or equivalent organizations, and federal regulations and revise the standards adopted pursuant to this section as necessary.

**(5) A retail dealer, nonretail dealer or wholesale dealer may sell or offer for sale gasoline that is not blended with ethanol if the gasoline is for use in:**

- (a) An aircraft:**
  - (A) With a supplemental type certificate approved by the Federal Aviation Administration that allows the aircraft to use gasoline that is intended for use in motor vehicles; or**
  - (B) Issued a type certificate by an aircraft engine manufacturer that allows the aircraft to use gasoline that is intended for use in motor vehicles;**
- (b) An aircraft that has been issued an experimental certificate, described in 14 C.F.R. 21.191, by the Federal Aviation Administration and that is required by the manufacturer's specifications to use gasoline that is intended for use in motor vehicles;**
- (c) A light-sport aircraft, as defined in 14 C.F.R. 1.1, that is required by the manufacturer's specifications to use gasoline that is intended for use in motor vehicles;**
- (d) A vintage aircraft, as defined by the Oregon Department of Aviation by rule, that is required by the manufacturer's specifications to use gasoline that is intended for use in motor vehicles;**
- (e) An antique vehicle, as defined in ORS 801.125;**

- (f) A Class I all-terrain vehicle, as defined in ORS 801.190;**
- (g) A Class III all-terrain vehicle, as defined in ORS 801.194;**
- (h) A racing activity vehicle, as defined in ORS 801.404;**
- (i) A snowmobile, as defined in ORS 801.490;**
- (j) Tools, including but not limited to lawn mowers, leaf blowers and chain saws; or**
- (k) A watercraft.**

**SECTION 5. The amendments to ORS 319.520, 319.550 and 319.665 by sections 1 to 3 of this 2008 Act become operative on January 1, 2009.**

**SECTION 6. This 2008 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2008 Act takes effect on its passage.**

Approved by the Governor March 11, 2008

Filed in the office of Secretary of State March 11, 2008

Effective date March 11, 2008