

Enrolled House Bill 2186

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

CHAPTER

AN ACT

Relating to greenhouse gas emissions; and declaring an emergency.

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

SECTION 1. (1) As used in this section:

- (a) "Greenhouse gas" has the meaning given that term in ORS 468A.210.
- (b) "Heavy-duty truck" has the meaning given that term in ORS 468A.795.
- (c) "Medium-duty truck" has the meaning given that term in ORS 468A.795.
- (d) "Return on investment" means:

(A) A net monthly savings gained through fuel efficiency that is equal to or greater than the net monthly payment obligation under a financing instrument; or

(B) The owner's or operator's initial capital costs, if self-funded, to comply with any potential requirements under this section are recouped in fuel savings within three years of the owner's or operator's expenditure of the initial capital costs.

(2)(a) The Department of Environmental Quality shall conduct a study of potential requirements regarding the maintenance or retrofitting of medium-duty trucks and heavy-duty trucks in order to reduce aerodynamic drag and otherwise reduce greenhouse gas emissions from those trucks. In conducting the study, the department shall evaluate:

(A) Comparable requirements of other states or the United States Environmental Protection Agency;

(B) The availability of financing programs to fund initial capital costs that are recouped in fuel savings over time;

(C) Differences among truck types, such as short-haul trucks and long-haul trucks;

(D) Implementation according to a phased-in schedule taking into account fleet size;

(E) The feasibility of requiring sellers of medium-duty trucks and heavy-duty trucks to disclose to buyers the existence of applicable greenhouse gas emissions reduction requirements; and

(F) The feasibility of providing economic hardship exemptions and deferrals for owners and operators of trucks, after considering the ability of owners and operators of trucks to attain a return on investment within the time period specified in any financing instrument available to fund initial capital costs associated with any potential requirements.

(b) As part of the study under this section, the department shall also study potential restrictions on engine use by parked commercial vehicles, including but not limited to medium-duty trucks and heavy-duty trucks.

(3) In conducting the study under this section, the department shall consult with relevant stakeholders.

(4) The department shall submit a report of its study, and shall include recommendations for legislation, to the interim legislative committees on environment and natural resources on or before October 1, 2010.

SECTION 2. Section 3 of this 2009 Act is added to and made a part of ORS chapter 468A.

SECTION 3. (1) As used in this section:

(a) "Greenhouse gas" has the meaning given that term in ORS 468A.210.

(b) "Motor vehicle" has the meaning given that term in ORS 801.360.

(2) The Environmental Quality Commission may adopt by rule standards and requirements described in this section to reduce greenhouse gas emissions.

(3)(a) The commission may adopt requirements to prevent the tampering, alteration and modification of the original design or performance of motor vehicle pollution control systems.

(b) Before adopting requirements under this section, the commission shall consider the antitampering requirements and exemptions of the State of California.

(4) The commission may adopt requirements for motor vehicle service providers to check and inflate tire pressure according to the tire manufacturer's or motor vehicle manufacturer's recommended specifications, provided that the requirements:

(a) Do not apply when the primary purpose of the motor vehicle service is fueling vehicles; and

(b) Do not require motor vehicle service providers to purchase equipment to check and inflate tire pressure.

(5) The commission may adopt restrictions on engine use by commercial ships while at port, and requirements that ports provide alternatives to engine use such as electric power, provided that:

(a) Engine use shall be allowed when necessary to power mechanical or electrical operations if alternatives are not reasonably available;

(b) Engine use shall be allowed when necessary for reasonable periods due to emergencies and other considerations as determined by the commission; and

(c) The requirements must be developed in consultation with representatives of Oregon ports and take into account operational considerations, operational agreements, international protocols and limitations, the ability to fund the purchase and use of electric power equipment and the potential effect of the requirements on competition with other ports.

(6) In adopting rules under this section, the commission shall evaluate:

(a) Safety, feasibility, net reduction of greenhouse gas emissions and cost-effectiveness;

(b) Potential adverse impacts to public health and the environment, including but not limited to air quality, water quality and the generation and disposal of waste in this state;

(c) Flexible implementation approaches to minimize compliance costs; and

(d) Technical and economic studies of comparable greenhouse gas emissions reduction measures implemented in other states and any other studies as determined by the commission.

(7) The provisions of this section do not apply to:

(a) Motor vehicles registered as farm vehicles under the provisions of ORS 805.300.

(b) Farm tractors, as defined in ORS 801.265.

(c) Implements of husbandry, as defined in ORS 801.310.

(d) Motor trucks, as defined in ORS 801.355, used primarily to transport logs.

SECTION 4. Except as provided in section 5 of this 2009 Act, section 3 of this 2009 Act becomes operative on January 1, 2011.

SECTION 5. The Environmental Quality Commission may adopt rules before the operative date specified in section 4 of this 2009 Act or take any action before the operative date specified in section 4 of this 2009 Act that is necessary to carry out the provisions of section

3 of this 2009 Act. Any rules adopted by the commission under this section do not become operative until on or after January 1, 2011.

SECTION 6. (1) As used in this section:

(a) "Greenhouse gas" has the meaning given that term in ORS 468A.210.

(b) "Low carbon fuel standards" means standards for the reduction of greenhouse gas emissions, on average, per unit of fuel energy.

(c) "Motor vehicle" has the meaning given that term in ORS 801.360.

(d) "PADD 5 region" means the Petroleum Administration for Defense District 5 states of Arizona, Nevada, Oregon and Washington.

(2)(a) The Environmental Quality Commission may adopt by rule low carbon fuel standards for gasoline, diesel and fuels used as substitutes for gasoline or diesel.

(b) The commission may adopt the following related to the standards, including but not limited to:

(A) A schedule to phase in implementation of the standards in a manner that reduces the average amount of greenhouse gas emissions per unit of fuel energy of the fuels by 10 percent below 2010 levels by the year 2020;

(B) Standards for greenhouse gas emissions attributable to the fuels throughout their lifecycles, including but not limited to emissions from the production, storage, transportation and combustion of the fuels and from changes in land use associated with the fuels;

(C) Provisions allowing the use of all types of low carbon fuels to meet the low carbon fuel standards, including but not limited to biofuels, biogas, compressed natural gas, gasoline, diesel, hydrogen and electricity;

(D) Standards for the issuance of deferrals, established with adequate lead time, as necessary to ensure adequate fuel supplies;

(E) Exemptions for liquefied petroleum gas and other alternative fuels that are used in volumes below thresholds established by the commission;

(F) Standards, specifications, testing requirements and other measures as needed to ensure the quality of fuels produced in accordance with the low carbon fuel standards, including but not limited to the requirements of ORS 646.910 to 646.923 and administrative rules adopted by the State Department of Agriculture for motor fuel quality; and

(G) Adjustments to the amounts of greenhouse gas emissions per unit of fuel energy assigned to fuels for combustion and drive train efficiency.

(c) Before adopting standards under this section, the commission shall consider the low carbon fuel standards of other states, including but not limited to Washington, for the purpose of determining schedules and goals for the reduction of the average amount of greenhouse gas emissions per unit of fuel energy and the default values for these reductions for applicable fuels.

(d) The commission shall provide exemptions and deferrals as necessary to mitigate the costs of complying with the low carbon fuel standards upon a finding by the commission that the 12-month rolling weighted average price of gasoline or diesel in Oregon is not competitive with the 12-month rolling weighted average price in the PADD 5 region.

(3) In adopting rules under this section, the Environmental Quality Commission shall evaluate:

(a) Safety, feasibility, net reduction of greenhouse gas emissions and cost-effectiveness;

(b) Potential adverse impacts to public health and the environment, including but not limited to air quality, water quality and the generation and disposal of waste in this state;

(c) Flexible implementation approaches to minimize compliance costs; and

(d) Technical and economic studies of comparable greenhouse gas emissions reduction measures implemented in other states and any other studies as determined by the commission.

(4) The provisions of this section do not apply to:

(a) Motor vehicles registered as farm vehicles under the provisions of ORS 805.300.

- (b) Farm tractors, as defined in ORS 801.265.
- (c) Implements of husbandry, as defined in ORS 801.310.
- (d) Motor trucks, as defined in ORS 801.355, used primarily to transport logs.

SECTION 7. (1) Except as provided in subsection (2) of this section, section 6 of this 2009 Act becomes operative on July 1, 2011.

(2) The Environmental Quality Commission may adopt rules before the operative date specified in subsection (1) of this section or take any action before the operative date specified in subsection (1) of this section that is necessary to carry out the provisions of section 6 of this 2009 Act. Any rules adopted by the commission under this section do not become operative until on or after July 1, 2011.

SECTION 8. Sections 6 and 7 of this 2009 Act are repealed on December 31, 2015.

SECTION 9. (1) The Department of Environmental Quality shall report on the implementation of sections 3 and 6 of this 2009 Act to:

(a) The interim legislative committees on environment and natural resources on or before December 31, 2010; and

(b) The Seventy-sixth, Seventy-seventh and Seventy-eighth Legislative Assemblies in the manner provided by ORS 192.245.

(2) The reports required under subsection (1) of this section must contain a description of:

(a) Rules adopted under sections 3 and 6 of this 2009 Act;

(b) The manner in which the Environmental Quality Commission complied with the requirements of sections 3 and 6 of this 2009 Act in adopting the rules;

(c) Significant policy decisions made by the commission in adopting rules under section 3 of this 2009 Act; and

(d) The anticipated effects of the December 31, 2015, repeal of sections 6 and 7 of this 2009 Act on the availability of low carbon fuels and the development of biofuels production facilities and electric vehicle infrastructure in Oregon.

SECTION 10. (1) There is created the Metropolitan Planning Organization Greenhouse Gas Emissions Task Force consisting of 16 members appointed as follows:

(a) The President of the Senate shall appoint two members from among members of the Senate.

(b) The Speaker of the House of Representatives shall appoint two members from among members of the House of Representatives.

(c) The Governor shall appoint the following members:

(A) One representative from each of the six metropolitan planning organizations in this state, at least three of whom must be elected local government officials.

(B) Four members who are representatives of transportation and land use stakeholders.

(C) The chairperson of the Oregon Transportation Commission.

(D) The chairperson of the Land Conservation and Development Commission.

(2) The task force shall:

(a) Study and evaluate the development of alternative land use and transportation scenarios that accommodate planned population and employment growth in those areas of the state that are served by metropolitan planning organizations while achieving a reduction in greenhouse gas emissions from motor vehicles with a gross vehicle weight rating of 10,000 pounds or less. The task force shall take into account the amount of greenhouse gas emissions caused by motor vehicles with a gross vehicle weight rating of 10,000 pounds or less that need to be reduced by 2035 in order to meet the goals stated in ORS 468A.205. The task force shall take into consideration the reductions in vehicle emissions that are likely to result by 2035 from the use of improved vehicle technologies and fuels.

(b) Evaluate potential fiscal and other resource needs to implement land use and transportation scenarios described in paragraph (a) of this subsection, including staffing and re-

sources needed by state agencies, local governments and each metropolitan planning organization.

(c) Evaluate impediments to implementing land use and transportation scenarios that reduce greenhouse gas emissions.

(d) Recommend legislation to the interim Legislative Assembly committees related to transportation and to the environment establishing a process for adoption and implementation of plans for reducing greenhouse gas emissions caused by motor vehicles with a gross vehicle weight rating of 10,000 pounds or less by 2035, in an amount sufficient to meet the goals stated in ORS 468A.205, in each area of this state served by a metropolitan planning organization, including a schedule for the planning process and an estimate of funding required to complete the planning process.

(3) A majority of the members of the task force constitutes a quorum for the transaction of business.

(4) Official action by the task force requires the approval of a majority of the members of the task force.

(5)(a) The President of the Senate and the Speaker of the House of Representatives shall serve as cochairpersons of the task force.

(b) The chairperson of the Oregon Transportation Commission and the chairperson of the Land Conservation and Development Commission shall serve as vice chairpersons of the task force.

(6) If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective.

(7) The task force shall meet at times and places specified by the call of the chairpersons.

(8) The task force may adopt rules necessary for the operation of the task force.

(9) The task force shall submit a report with recommendations for legislation to the interim legislative committees related to transportation and to the environment and natural resources prior to January 1, 2010.

(10) The Department of Transportation and the Department of Land Conservation and Development shall provide staff support to the task force. The Department of Transportation shall use available federal flexible funds for the staffing and support of the task force.

(11) Members of the task force who are not members of the Legislative Assembly are not entitled to compensation, but may be reimbursed for actual and necessary travel and other expenses incurred by them in the performance of their official duties in the manner and amounts provided for in ORS 292.495. Claims for expenses incurred in performing functions of the task force shall be paid out of funds appropriated to the Department of Transportation for purposes of the task force.

(12) All agencies of state government, as defined in ORS 174.111, are directed to assist the task force in the performance of its duties and, to the extent permitted by laws relating to confidentiality, to furnish such information and advice as the members of the task force consider necessary to perform their duties.

(13) For the purposes of this section, "metropolitan planning organization" means an organization located wholly within the State of Oregon and designated by the Governor to coordinate transportation planning in an urbanized area of the state pursuant to 49 U.S.C. 5303(c).

SECTION 11. Section 10 of this 2009 Act is repealed on the date of the convening of the next regular biennial legislative session.

SECTION 12. This 2009 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect on its passage.

Passed by House May 8, 2009

Repassed by House June 25, 2009

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Chief Clerk of House

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Speaker of House

Passed by Senate June 24, 2009

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President of Senate

Received by Governor:

.....M,....., 2009

Approved:

.....M,....., 2009

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Governor

Filed in Office of Secretary of State:

.....M,....., 2009

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Secretary of State