



TO: Road User Fee Task Force Members
FROM: ODOT Office of Innovation Staff
SUBJECT: Enforcement Options for OReGO Program
DATE: May 30, 2018

Executive Summary

The transportation funding package of 2017 (House Bill 2017) created an option for fully electric vehicle owners in Oregon to participate in the OReGO road usage charge (RUC) program in lieu of paying the enhanced registration fees that were established in the same transportation bill. Seeking to prevent a situation where fully electric vehicle owners enroll in OReGO to avoid paying the enhanced registration fee and, within a short period of time, leave the program without penalty, the Road User Fee Task Force (RUFTF) directed ODOT to provide enforcement options to include in potential legislative concept for the 2019 session. Additionally, RUFTF members asked ODOT to provide information about the enforcement options that would be essential for a future mandatory RUC program.

This memo highlights a number of options available to RUFTF and weighs the relative benefits and challenges of each approach. All options would require statutory changes.

Potential Enforcement Options

The ability for ODOT to account for the enhanced registration fee from vehicle owners who leave the OReGO program during a registration cycle (when participation in the program exempted the vehicle from being subject to the registration fee) is crucial to the success of the program. Unlike current OReGO members, vehicle owners who take advantage of the registration fee exemption by enrolling in OReGO are not purely volunteers, therefore a tool to recover lost registration fees is necessary.

There are two different approaches to ensuring vehicle owners pay their fair share. One is to credit the enhanced registration amount to an OReGO account and the other allows ODOT to capture the funds if an individual leaves the OReGO program during the registration cycle.

1. Collecting Enhanced Registration Fees Upfront

This would be an upfront payment of the enhanced registration fee that results in a credit for the vehicle owner to the OReGO program.

While this option ensures that ODOT captures the revenue, it creates a complicated accounting and revenue distribution problem that may be costly to solve. This option does not provide the

incentive to avoid paying the entirety of the enhanced registration fee at one time, which could be beneficial to those with tight budgets.

2. Collecting Enhanced Registration Fees After Leaving OReGO

The second option would consist of a collection process once a participant left the OReGO program. The fee could be applied in full or at a prorated amount equal to the number of months remaining on their vehicle's registration period. While the fee would be equivalent to offset lost revenue from uncaptured registration, it would need to be established separately from the enhanced registration so that it could follow the offending vehicle owner and not the specific vehicle, to avoid potential complications around vehicle sale. In this option, a collection fee may also need to be considered. Unless there is an enforcement action available to be taken against a person for nonpayment after opting out of OReGO, this option does not ensure ODOT captures the revenue. If this option is chosen, the state can attempt to collect the lost revenue by using one or more of the following options:

a. Cancellation of Registration

ORS 803.315 currently provides ODOT with the ability to cancel vehicle registration if a person fails to pay the appropriate registration fee, but this does not include the additional registration fees resulting from HB 2017. The statute could be amended to also apply to enhanced registration fees, which would allow ODOT to cancel registration when a vehicle owner enrolls in the OReGO program as an exemption to the registration fee and then subsequently exits the OReGO program.

Cancellation actions involve a notification process with the right to request a hearing. Current statute does not hold the vehicle owner responsible if the vehicle is sold, so that process would need to be amended as well.

b. Denial of Registration Renewal

Current statute permits DMV to withhold renewal of a vehicle registration unless certain requirements have been met and all applicable fees have been paid. This law could be expanded to include those vehicle owners who did not pay the enhanced registration surcharge. This kind of registration hold is distinct from registration cancellation in that it does not affect the vehicle owner until their current registration is set to expire and they need to renew. This is a softer approach than cancellation, however, it requires a significant one-time payment and only compels the vehicle owner to act at or around time of registration renewal every two to four years, during which time the vehicle title may have changed possession. It does not hold the vehicle owner responsible if the vehicle is sold.

c. Civil Penalties

Vehicle owners who fail to pay either the enhanced registration fee or the RUC fees could be charged civil penalties. Civil penalty amounts should be set so they act as effective deterrents against non-payment, without being so punitive that they result in lower collection rates that fail to keep up with collection costs. The penalty structure could be tiered such that recurring offenders face progressively severe fines for violating program rules. ODOT would need authorizing legislation to establish the penalty structure, and rulemaking authority to set collection rules. Civil penalties could be applied in situations where OReGO participants were delinquent in paying their RUC accounts, as well as failing to pay the prorated balance of an enhanced registration fee surcharge.

Civil penalties are a common enforcement mechanism with well-established best practices. RUFTF would need to be mindful when setting penalty value to avoid creating an unfair or overly burdensome fine. Waiver or hardship provisions could be established through rule to mitigate equity concerns. This option holds the vehicle owner responsible even if the vehicle is sold.

d. Liens

Oregon statute provides for a lien to be placed on vehicles for which the fuels tax has not been paid. Although seldom used, DMV does have a process in place whereby a flag is placed on the vehicle record so that a title transfer is halted pending satisfaction of the lien. The statute could be expanded to include road usage charges as an additional compliance tool. The downside to this option is that vehicle sale typically occurs before the new owner comes in to title, so it is unlikely to compel the vehicle owner responsible for the delinquent RUC account to remit the RUC.

Considering that challenge, if RUFTF opted for this enforcement tool, legislative concept language should specify that ODOT would not seize a vehicle with an outstanding lien. Also, this option would not hold the vehicle owner responsible if the vehicle is sold unless the law is also amended to make certain that the cloud on the title must be satisfied by the transferring owner.

Conclusion

In basing our recommendations, ODOT considered previous direction from RUFTF on values to consider, balance of administrative investment to cost recovery, and the current goals of an expanding quasi-voluntary program to a future mandatory program. ODOT suggests implementing a softer approach for this current time where vehicles are choosing the OReGO program over paying enhanced registration and a more structured system in the future mandatory program.

Specifically, ODOT recommends RUFTF consider the following in a 2019 legislative concept:

1. Require payment of enhanced registration fee amount for vehicle owners who leave the OReGO program during the registration period.
2. Allow ODOT to cancel registration for vehicle owners who have failed to pay additional registration fee after leaving the OReGO program.

Additionally, in a future mandatory RUC program, ODOT recommends the following enforcement option:

3. Provide ODOT rulemaking authority to levy tiered civil penalties in response to certain OReGO program violations.