

HOUSE AMENDMENTS TO A-ENGROSSED HOUSE BILL 2172

By COMMITTEE ON REVENUE

May 10

- 1 On page 2 of the printed A-engrossed bill, line 10, delete “10, 12, 13, 15 and”.
- 2 After line 21, insert:
- 3 “(7) ‘Nonroad Oregon diesel engine’ means any Oregon diesel engine that was not designed pri-
- 4 marily to propel a motor vehicle on public highways of this state.”.
- 5 In line 22, delete “(7)” and insert “(8)”.
- 6 In line 25, delete “(8)” and insert “(9)”.
- 7 Delete lines 28 and 29 and insert:
- 8 “(10) ‘Public highway’ has the meaning given that term in ORS 825.005.
- 9 “(11) ‘Repower’ means to scrap an old diesel engine and replace it with a new engine, a used
- 10 engine or a remanufactured engine, or with electric motors, drives or fuel cells, with a minimum
- 11 useful life of seven years.”.
- 12 In line 30, delete “(10)” and insert “(12)”.
- 13 In line 34, delete “(11)” and insert “(13)”.
- 14 In line 35, delete “(12)” and insert “(14)”.
- 15 After line 36, insert:
- 16 “**SECTION 6a.** Section 6 of this 2007 Act is amended to read:
- 17 “**Sec. 6.** As used in sections 6 to [16] **10** of this 2007 Act:
- 18 “(1) ‘Combined weight’ has the meaning given that term in ORS 825.005.
- 19 “(2) ‘Cost-effectiveness threshold’ means the cost, in dollars, per ton of diesel particulate matter
- 20 reduced, as established by rule of the Environmental Quality Commission.
- 21 “(3) ‘Heavy-duty truck’ means a motor vehicle or combination of vehicles operated as a unit that
- 22 has a combined weight that is greater than 26,000 pounds.
- 23 “(4) ‘Incremental cost’ means the cost of a qualifying repower or retrofit less a baseline cost
- 24 that would otherwise be incurred in the normal course of business.
- 25 “(5) ‘Medium-duty truck’ means a motor vehicle or combination of vehicles operated as a unit
- 26 that has a combined weight that is greater than 14,000 pounds but less than or equal to 26,000
- 27 pounds.
- 28 “(6) ‘Motor vehicle’ has the meaning given that term in ORS 825.005.
- 29 “(7) ‘Nonroad Oregon diesel engine’ means any Oregon diesel engine that was not designed pri-
- 30 marily to propel a motor vehicle on public highways of this state.
- 31 “(8) ‘Oregon diesel engine’ means an engine at least 50 percent of the use of which, as measured
- 32 by miles driven or hours operated, will occur in Oregon for the three years following the repowering
- 33 or retrofitting of the engine.
- 34 “(9) ‘Oregon diesel truck engine’ means a diesel engine in a truck at least 50 percent of the use
- 35 of which, as measured by miles driven or hours operated, has occurred in Oregon for the two years

1 preceding the scrapping of the engine.

2 “(10) ‘Public highway’ has the meaning given that term in ORS 825.005.

3 “(11) ‘Repower’ means to scrap an old diesel engine and replace it with a new engine, a used
4 engine or a remanufactured engine, or with electric motors, drives or fuel cells, with a minimum
5 useful life of seven years.

6 “(12) ‘Retrofit’ means to equip a diesel engine with new emissions-reducing parts or technology
7 after the manufacture of the original engine. A retrofit must use the greatest degree of emissions
8 reduction available for the particular application of the equipment retrofitted that meets the cost-
9 effectiveness threshold.

10 “(13) ‘Scrap’ means to destroy and render inoperable.

11 “(14) ‘Truck’ means a motor vehicle or combination of vehicles operated as a unit that has a
12 combined weight that is greater than 14,000 pounds.

13 **“SECTION 6b. The amendments to section 6 of this 2007 Act by section 6a of this 2007
14 Act become operative on January 2, 2018.”.**

15 In line 42, delete “Includes” and insert “May not exceed”.

16 On page 3, after line 2, insert:

17 **“SECTION 7a.** Section 7 of this 2007 Act is amended to read:

18 **“Sec. 7.** (1) The Environmental Quality Commission by rule shall establish standards related to
19 the certified cost necessary to perform a qualifying repower or retrofit[, *including but not limited to*
20 *rules establishing the certified cost for purposes of the tax credit established in section 12 of this 2007*
21 *Act*].

22 “(2) For the purposes of subsection (1) of this section, certified cost:

23 “(a) May not exceed the incremental cost of labor and hardware that the Department of Envi-
24 ronmental Quality finds necessary to perform a qualifying repower or retrofit;

25 “(b) Does not include the cost of any portion of a repower or retrofit undertaken to comply with
26 any applicable local, state or federal pollution or emissions law or for ordinary maintenance, repair
27 or replacement of a diesel engine; and

28 “(c) May not exceed the cost-effectiveness threshold.

29 **“SECTION 7b. The amendments to section 7 of this 2007 Act by section 7a of this 2007
30 Act become operative on January 2, 2018.”.**

31 In line 4, after “repower” insert “of a nonroad Oregon diesel engine”.

32 Delete line 10.

33 In line 13, delete the period and insert “; and

34 “(c) A requirement that a qualifying repower or retrofit does not include the repower or retrofit
35 of a vehicle or engine for which a grant, loan or tax credit under section 10 or 12 of this 2007 Act
36 has been awarded or allowed, unless the repower or retrofit will reduce emissions further than the
37 repower or retrofit funded by the grant, loan or tax credit.

38 **“SECTION 8a.** Section 8 of this 2007 Act is amended to read:

39 **“Sec. 8.** (1) The Environmental Quality Commission by rule shall establish standards for the
40 qualifying repower of a nonroad Oregon diesel engine or retrofit of an Oregon diesel engine[, *in-*
41 *cluding but not limited to rules establishing repower or retrofit qualifications for purposes of the tax*
42 *credit established in section 12 of this 2007 Act*].

43 “(2) The standards adopted by the commission under this section must include:

44 “(a) A requirement for the reduction of diesel particulate matter emissions by at least 25 percent
45 compared with the baseline emissions for the relevant engine year and application;

1 “(b) A list of technologies approved as qualifying repowers or retrofits that have been verified
2 by the United States Environmental Protection Agency or the California Air Resources Board; and

3 “(c) A requirement that a qualifying repower or retrofit does not include the repower or retrofit
4 of a vehicle or engine for which a grant[,] or loan [or tax credit] under section 10 [or 12] of this 2007
5 Act has been awarded or allowed, unless the repower or retrofit will reduce emissions further than
6 the repower or retrofit funded by the grant[,] or loan [or tax credit].

7 **“SECTION 8b. The amendments to section 8 of this 2007 Act by section 8a of this 2007
8 Act become operative on January 2, 2018.”.**

9 In line 28, delete “or” and insert “and”.

10 In line 29, delete “repowers or”.

11 In line 30, delete the second “and”.

12 After line 30, insert:

13 “(b) Grants and loans to the owners and operators of nonroad Oregon diesel engines for up to
14 25 percent of the certified costs of qualifying repowers as described in sections 7 and 8 of this 2007
15 Act; and”.

16 In line 31, delete “(b)” and insert “(c)”.

17 Delete lines 32 through 34 and insert:

18 “(2) In determining”.

19 In line 38, delete “or private”.

20 In line 45, delete “(1)(b)” and insert “(1)(c)”.

21 On page 4, line 4, delete “(1)(b)” and insert “(1)(c)”.

22 In line 6, delete “(1)(b)” and insert “(1)(c)”.

23 In line 7, delete “or private”.

24 After line 19, insert:

25 “(7) The department may perform activities necessary to ensure that recipients of grants and
26 loans from the Clean Diesel Engine Fund comply with applicable requirements. If the department
27 determines that a recipient has not complied with applicable requirements, it may order the recipi-
28 ent to refund all grant or loan moneys and may impose penalties pursuant to ORS 468.140.”.

29 In line 27, delete “vehicle” and insert “engine”.

30 Delete lines 29 through 45 and delete page 5.

31 On page 6, delete line 1 and insert:

32 **“SECTION 12. (1) A personal income or corporate income or excise taxpayer is allowed
33 a credit against the taxes that are otherwise due under ORS chapter 316, 317 or 318 for the
34 certified costs of a repower of a nonroad Oregon diesel engine or retrofit of an Oregon diesel
35 engine that occurs after the effective date of this 2007 Act if:**

36 **“(a) The repower or retrofit has been identified as qualifying for the credit under rules
37 adopted by the Environmental Quality Commission under section 8 of this 2007 Act;**

38 **“(b) The engine will constitute an Oregon diesel engine; and**

39 **“(c) The taxpayer has obtained a tax credit cost certification from the Department of
40 Environmental Quality under section 16 of this 2007 Act for the cost of the repower or
41 retrofit.**

42 **“(2) The maximum amount of the tax credit allowed under this section is limited to:**

43 **“(a) 25 percent of the certified cost of each qualifying repower; and**

44 **“(b) 50 percent of the certified cost of each qualifying retrofit.**

45 **“(3) The amount of the tax credit allowed to the taxpayer under this section in any one**

1 tax year may not exceed the tax liability of the taxpayer for the tax year.

2 “(4) Any tax credit that is allowed under this section, but limited by subsection (3) of this
3 section, and that is not used by the taxpayer in a particular tax year may be carried forward
4 and offset against the taxpayer’s tax liability as prescribed in subsection (3) of this section
5 for the next succeeding tax year. Any credit remaining unused in the next succeeding tax
6 year may be carried forward and offset against the taxpayer’s tax liability as prescribed in
7 subsection (3) of this section for the second succeeding tax year. Any credit remaining un-
8 used in the second succeeding tax year may be carried forward and offset against the tax-
9 payer’s tax liability as prescribed in subsection (3) of this section for the third succeeding
10 tax year, but may not be carried forward for any tax year thereafter.

11 “(5) The credit allowed under this section is not in lieu of any depreciation or amorti-
12 zation deduction for the engine to which the taxpayer otherwise may be entitled for purposes
13 of ORS chapter 316, 317 or 318. The taxpayer’s adjusted basis for determining gain or loss
14 may not be decreased by any tax credits allowed under this section.

15 “(6)(a) The Department of Revenue may disallow the credit allowed under this section if
16 the department finds that the credit was obtained by fraud or misrepresentation, or if the
17 department learns that the engine that was the subject of the qualifying repower or retrofit
18 was destroyed by arson committed by the taxpayer, or if the engine no longer meets the
19 requirements for obtaining the tax credit.

20 “(b) If the tax credit is disallowed pursuant to this subsection, notwithstanding ORS
21 314.410 or other law, all prior tax relief provided to the taxpayer shall be forfeited, the de-
22 partment shall proceed to collect those taxes not paid by the taxpayer as a result of the prior
23 granting of the credit and the taxpayer shall be denied any further credit provided under this
24 section.

25 “(c) The department may perform activities necessary to ensure that recipients of the
26 tax credit comply with applicable requirements.

27 “(7)(a) A nonresident individual shall be allowed the credit computed in the same manner
28 and subject to the same limitations as the credit allowed a resident by this section. However,
29 the credit shall be prorated using the proportion provided in ORS 316.117.

30 “(b) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or
31 if the Department of Revenue terminates the taxpayer’s taxable year under ORS 314.440, the
32 credit allowed by this section shall be prorated or computed in a manner consistent with ORS
33 314.085.

34 “(c) If a change in the status of a taxpayer from resident to nonresident or from non-
35 resident to resident occurs, the credit allowed by this section shall be determined in a man-
36 ner consistent with ORS 316.117.

37 “(8) The taxpayer shall claim the credit on a form prescribed by the Department of Re-
38 venue containing the information required by the Department of Revenue. The taxpayer shall
39 maintain the tax credit cost certification issued by the Department of Environmental Quality
40 under section 16 of this 2007 Act in the records of the taxpayer for the length of time pre-
41 scribed by the Department of Revenue and shall provide a copy of the cost certification to
42 the Department of Revenue if requested.

43 “(9) A taxpayer may not claim a credit under this section and ORS 315.304 with respect
44 to the same diesel engine or group of diesel engines. A taxpayer may claim a credit under
45 this section and under ORS 469.185 to 469.225 with respect to the same diesel engine or group

1 of diesel engines if the taxpayer and diesel engines otherwise meet the requirements to be
2 allowed a tax credit under ORS 469.185 to 469.225.

3 “(10) The amount of tax credits allowed under this section during each calendar year may
4 not exceed \$3 million.”.

5 In line 18, delete “2007” and insert “2008”.

6 On page 7, line 6, after the period insert “In determining the amount of a tax credit under this
7 section, the department shall reduce the incremental cost of a qualifying repower or retrofit by the
8 value of any existing financial incentive that directly reduces the cost of the qualifying repower or
9 retrofit, including tax credits, grants, loans or any other public financial assistance.”.

10 After line 15, insert:

11 “**SECTION 16a. Sections 12 to 16 of this 2007 Act are repealed on January 2, 2018.**”.

12 In line 25, delete “January 1, 2004” and insert “the effective date of this 2007 Act”.

13 In line 26, delete “oxides of nitrogen” and insert “particulate matter” and delete “2.5” and insert
14 “0.01”.

15 On page 9, line 5, delete “\$3 million” and insert “\$500,000”.

16 In line 7, delete “\$3 million” and insert “\$500,000”.