

B-Engrossed House Bill 2186

Ordered by the Senate June 8
Including House Amendments dated May 4 and Senate Amendments dated
June 8

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)

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.

Authorizes Environmental Quality Commission to adopt rules to help state reduce greenhouse gas emissions. Specifies rules that commission may adopt. Specifies criteria by which commission must adopt rules.

Requires commission to report on rules to specified legislative committees and to Seventy-sixth, Seventy-seventh and Seventy-eighth Legislative Assemblies.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to greenhouse gas emissions; and declaring an emergency.

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

4 **SECTION 1. Sections 2 to 4a of this 2009 Act are added to and made a part of ORS**
5 **chapter 468A.**

6 **SECTION 2. As used in sections 2 to 4 of this 2009 Act:**

7 (1) "Combined weight" has the meaning given that term in ORS 825.005.

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

9 (3) "Heavy-duty truck" has the meaning given that term in ORS 468A.795.

10 (4) "Light-duty truck" means:

11 (a) A motor vehicle or combination of vehicles operated as a unit that has a combined
12 weight that is less than or equal to 8,500 pounds and that is designed primarily for the pur-
13 pose of transporting property; or

14 (b) A motor vehicle or combination of vehicles operated as a unit that has a combined
15 weight that is less than or equal to 8,500 pounds, that is designed primarily for the purpose
16 of transporting property and that is available with special features that enable off-street or
17 off-highway operation and use.

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

20 (6) "Medium-duty truck" has the meaning given that term in ORS 468A.795.

21 (7) "Motorcycle" has the meaning given that term in ORS 801.365.

22 (8) "Motor vehicle" has the meaning given that term in ORS 825.005.

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

25 (10) "Passenger car" means a motor vehicle that is designed primarily for the transpor-

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 tation of 12 or fewer persons.

2 (11)(a) "Replacement tire" means a tire sold in this state that is designed to replace a
3 tire sold with a new passenger car or new light-duty truck.

4 (b) "Replacement tire" does not include any of the following:

5 (A) A tire or group of tires from the same stock-keeping unit, plant and year, if the
6 number of tires produced or imported for that unit is less than 15,000 annually.

7 (B) A deep-tread snow tire, a space-saver tire or a temporary-use spare tire.

8 (C) A tire with a nominal rim diameter of 12 inches or less.

9 (D) A motorcycle tire.

10 (E) A tire manufactured specifically for use in an off-road motorized recreational vehicle.

11 **SECTION 3.** (1) The Environmental Quality Commission may adopt by rule standards and
12 requirements described in this section to reduce greenhouse gas emissions.

13 (2)(a) The commission may adopt low carbon fuel standards for gasoline, diesel and fuels
14 used as a substitute for gasoline or diesel.

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

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

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

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

26 (D) Standards for the issuance of deferrals, established with adequate lead time, as nec-
27 essary to ensure adequate fuel supplies;

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

30 (F) Standards, specifications, testing requirements and other measures as needed to en-
31 sure the quality of fuels produced in accordance with the low carbon fuel standards, includ-
32 ing but not limited to the requirements of ORS 646.910 to 646.923 and administrative rules
33 adopted by the State Department of Agriculture for motor fuel quality;

34 (G) Exemptions for standards for fuels used for an engine application if the use would
35 void a manufacturer's engine warranty;

36 (H) Adjustments to the amounts of greenhouse gas emissions per unit of fuel energy as-
37 signed to fuels for combustion and drive train efficiency; and

38 (I) Coordination of Oregon's low carbon fuel standards with those of other states, in-
39 cluding but not limited to the schedule and goal for the reduction of the average amount of
40 greenhouse gas emissions per unit of fuel energy and the default values for these reductions
41 for applicable fuels.

42 (c) After December 31, 2020, the commission may not amend the low carbon fuel stan-
43 dards adopted under this subsection to be any more stringent than those adopted under this
44 subsection before that date.

45 (d) The commission shall provide exemptions and deferrals as necessary to mitigate the

1 costs of complying with the low carbon fuel standards upon a finding by the commission that
2 the 12-month rolling weighted average price of gasoline or diesel in Oregon exceeds the
3 12-month rolling weighted average price in the PADD 5 region by at least 10 percent.

4 (3)(a) The commission may adopt requirements to maintain or retrofit medium-duty
5 trucks and heavy-duty trucks in order to reduce aerodynamic drag and otherwise reduce
6 greenhouse gas emissions from those trucks, provided that the commission evaluates:

7 (A) Comparable requirements of other states or the United States Environmental Pro-
8 tection Agency;

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

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

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

13 (b) The commission may require sellers of medium-duty trucks and heavy-duty trucks
14 to disclose to buyers the existence of applicable greenhouse gas emissions reduction re-
15 quirements.

16 (c) After December 31, 2020:

17 (A) The commission may not amend the requirements adopted under this subsection to
18 be any more stringent than the requirements adopted under this subsection before that date;
19 and

20 (B) The commission may not amend the requirements adopted under this subsection to
21 apply to any fleet sizes not regulated under this section before that date.

22 (d) The commission shall adopt by rule economic hardship exemptions and deferrals for
23 owners and operators of trucks from requirements adopted pursuant to this subsection. In
24 adopting rules under this subsection, the commission shall evaluate the ability of owners and
25 operators of trucks to attain a return on investment within the time period specified in any
26 financing instrument available to fund initial capital costs associated with the requirements
27 adopted under this subsection.

28 (e) As used in this subsection, "return on investment" means:

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

31 (B) The owner's or operator's initial capital costs, if self-funded, to comply with the re-
32 quirements adopted under this subsection are recouped in fuel savings within three years of
33 the owner's or operator's expenditure of the initial capital costs.

34 (4)(a) The commission may adopt requirements to prevent the tampering, alteration and
35 modification of the original design or performance of motor vehicle pollution control sys-
36 tems, provided that the commission coordinates any Oregon antitampering requirements and
37 exemptions with those of the State of California.

38 (b) After December 31, 2020, the commission may not adopt requirements for any types
39 of motor vehicle pollution control systems not regulated under this section before that date.

40 (5)(a) The commission may adopt standards governing the energy efficiency of replace-
41 ment tires manufactured in, or imported into, this state for passenger cars and light-duty
42 trucks provided that:

43 (A) The commission coordinates the standards with those of other states and does not
44 adopt standards that require the manufacture of new types of replacement tires solely for
45 this state.

1 (B) The commission evaluates exemptions for tires used to equip authorized emergency
2 vehicles if replacement tires for those vehicles do not meet the standards.

3 (C) The standards:

4 (i) Are technically feasible and cost-effective;

5 (ii) Do not adversely affect tire safety;

6 (iii) Do not adversely affect the average tire life; and

7 (iv) Do not adversely affect Oregon's efforts to manage scrap tires.

8 (b) After December 31, 2020, the commission may not adopt standards for any types of
9 replacement tires not regulated under this section before that date.

10 (6)(a) The commission may adopt requirements for motor vehicle service providers to
11 check and inflate tire pressure according to the tire manufacturer's or motor vehicle man-
12 ufacturer's recommended specifications, provided that the requirements:

13 (A) Do not apply when the primary purpose of the motor vehicle service is fueling vehi-
14 cles; and

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

17 (b) After December 31, 2020, the commission may not adopt requirements for any type
18 of motor vehicle service providers not regulated under this section before that date.

19 (7)(a) The commission may adopt restrictions on engine use by parked commercial vehi-
20 cles, including but not limited to medium-duty trucks and heavy-duty trucks, and by com-
21 mercial ships while at port, and requirements that truck stops and ports provide alternatives
22 to engine use such as electric power, provided that:

23 (A) Engine use shall be allowed when necessary to power mechanical or electrical oper-
24 ations if alternatives are not reasonably available;

25 (B) Engine use shall be allowed when necessary for reasonable periods due to traffic de-
26 lays, frequent delivery stops, loading and unloading, inspections, safety procedures, emer-
27 gencies and other considerations as determined by the commission; and

28 (C) Any requirements applicable to commercial ships and ports must be developed in
29 consultation with representatives of Oregon ports and take into account operational consid-
30 erations, operational agreements, international protocols and limitations, the ability to fund
31 the purchase and use of electric power equipment and the potential effect of the require-
32 ments on competition with other ports.

33 (b) After December 31, 2020, the commission may not adopt:

34 (A) Restrictions on engine use by any types of parked commercial vehicles and commer-
35 cial ships at port not regulated under this section before that date; and

36 (B) Additional alternatives to engine use for truck stops and ports regulated under this
37 section before that date.

38 SECTION 4. In adopting rules under section 3 of this 2009 Act, the Environmental Quality
39 Commission shall evaluate:

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

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

43 (3) Flexible implementation approaches to minimize compliance costs;

44 (4) The benefits and costs of the rules in relation to the programs of other state agencies,
45 whether implemented or under development, to reduce greenhouse gas emissions from the

1 same economic sectors; and

2 (5) Technical and economic studies of comparable greenhouse gas emissions reduction
3 measures implemented in other states and any other studies as determined by the commis-
4 sion.

5 **SECTION 4a.** Sections 2 to 4 of this 2009 Act do not apply to:

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

7 (2) Farm tractors, as defined in ORS 801.265.

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

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

10 **SECTION 5.** Except as provided in section 6 of this 2009 Act, sections 1 to 4a of this 2009
11 Act become operative on July 1, 2011.

12 **SECTION 6.** The Environmental Quality Commission may adopt rules before the opera-
13 tive date specified in section 5 of this 2009 Act or take any action before the operative date
14 specified in section 5 of this 2009 Act that is necessary to carry out the provisions of sections
15 1 to 4a of this 2009 Act. Any rules adopted by the commission under this section do not be-
16 come operative until on or after July 1, 2011.

17 **SECTION 7.** (1) The Department of Environmental Quality shall report on the imple-
18 mentation of sections 2 to 4a of this 2009 Act to:

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

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

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

25 (a) Rules adopted under sections 3 and 4 of this 2009 Act;

26 (b) The manner in which the Environmental Quality Commission complied with the re-
27 quirements of sections 3 to 4a in adopting the rules; and

28 (c) Significant policy decisions made by the commission in adopting rules under sections
29 3 and 4 of this 2009 Act.

30 **SECTION 8.** This 2009 Act being necessary for the immediate preservation of the public
31 peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect
32 on its passage.
33