

# House Bill 3146

Sponsored by Representative SHIELDS

## 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 **as introduced**.

Imposes tax on purchase price of luxury items. Directs Department of Revenue to deposit moneys in accounts for kindergarten through grade 12 education, community colleges and state institutions of higher education.

Establishes Higher Education Support Fund. Continuously appropriates moneys in fund to State Board of Higher Education.

Applies to luxury items sold by retailers on or after January 1, 2010.

## A BILL FOR AN ACT

1  
2 Relating to taxation of luxury items; appropriating money; and providing for revenue raising that  
3 requires approval by a three-fifths majority.

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

### **SECTION 1. As used in sections 1 to 5 of this 2009 Act:**

6 (1) "Luxury item" includes, but is not limited to:

7 (a) Automobiles and trucks with a purchase price of \$40,000 or more.

8 (b) Airplanes.

9 (c) Gliders.

10 (d) Kit planes.

11 (e) Hang gliders.

12 (f) Skydiving parachutes.

13 (g) Sightseeing and other recreational flights.

14 (h) Fur coats or garments.

15 (i) Cosmetic surgery that is not for reconstructive purposes.

16 (j) Electronics with a purchase price of \$1,000 or more per item.

17 (k) Jewelry with a purchase price of \$1,000 or more.

18 (L) Snowmobiles.

19 (m) Sports equipment with a purchase price of \$500 or more per item.

20 (n) Artwork with a purchase price of \$5,000 or more.

21 (o) Submarines.

22 (p) Real estate other than the primary residence.

23 (2) "Purchase price" means the total amount for which an item is sold by a retailer.

24 (3) "Retailer" means a person regularly engaged in the business of selling luxury items  
25 to consumers in this state.

26 **SECTION 2. (1) A tax of \_\_\_\_\_ percent of the purchase price of a luxury item is im-**  
27 **posed on a consumer who purchases a luxury item from a retailer.**

28 (2) A retailer shall collect the tax imposed under this section from the consumer at the  
29 time the retailer sells the luxury item to the consumer.

**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 (3) The tax liability imposed on the consumer by this section is considered paid at the  
 2 time the consumer pays to the retailer the purchase price and tax on the luxury item.

3 (4) The retailer shall hold in trust for the State of Oregon all moneys collected under this  
 4 section until the retailer remits those moneys to the Department of Revenue under section  
 5 3 of this 2009 Act.

6 **SECTION 3.** (1) On or before the last day of the month following the end of each calendar  
 7 quarter, a retailer responsible for collecting moneys from the tax imposed by section 2 of this  
 8 2009 Act shall file a return with the Department of Revenue on a form prescribed by the  
 9 department by rule.

10 (2) At the time the retailer files a return under subsection (1) of this section, the retailer  
 11 shall remit moneys collected and held in trust for the State of Oregon under section 2 of this  
 12 2009 Act.

13 (3) If a retailer fails to remit any amount held in trust for the State of Oregon, the de-  
 14 partment may enforce collection by the issuance of a distraint warrant for the collection of  
 15 the delinquent amount and all penalties, interest and collection charges. The warrant shall  
 16 be issued, docketed and proceeded upon in the same manner and shall have the same force  
 17 and effect that is prescribed for warrants issued to collect delinquent income taxes.

18 (4) If the amount paid by a retailer exceeds the amount of tax payable, the department  
 19 shall refund the amount of the excess with interest at the rate established under ORS 305.220  
 20 for each month or fraction of a month from the date of payment of the excess until the date  
 21 of the refund. A refund may not be made to a retailer who fails to claim the refund within  
 22 two years after the due date for the filing of the return with respect to which the claim for  
 23 the refund relates.

24 (5) The exclusive remedy for a retailer in a dispute involving tax liability imposed by  
 25 section 2 of this 2009 Act is to file a claim with the department.

26 **SECTION 4.** (1) All moneys received by the Department of Revenue under section 3 of  
 27 this 2009 Act, less any collection charges, shall be held in a suspense account established  
 28 under ORS 293.445.

29 (2) After payment of refunds, the balance of moneys received shall be paid as follows:

30 (a) Fifty percent into the State School Fund established under ORS 327.008;

31 (b) Twenty-five percent into the Community College Support Fund established under ORS  
 32 341.620; and

33 (c) Twenty-five percent into the Higher Education Support Fund established under sec-  
 34 tion 7 of this 2009 Act.

35 (3) Notwithstanding subsection (2) of this section, moneys subject to section 3a, Article  
 36 IX of the Oregon Constitution, shall be paid into the State Highway Fund described in ORS  
 37 366.505.

38 **SECTION 5.** (1) Every retailer responsible for collecting moneys from the tax imposed  
 39 by section 2 of this 2009 Act shall keep records, render statements, make returns and comply  
 40 with rules adopted by the Department of Revenue for the purpose of implementing sections  
 41 1 to 5 of this 2009 Act.

42 (2) Unless the context requires otherwise, the provisions of ORS chapters 305, 314 and  
 43 316 as to the audit and examination of reports and returns, determinations of deficiencies,  
 44 assessments, claims for refunds, penalties, interest, jeopardy assessments, warrants,  
 45 confidentiality and disclosure of information, conferences and appeals to the Oregon Tax

1 Court, and all related procedures, apply to the tax imposed under section 2 of this 2009 Act  
2 the same as if the tax were a tax imposed upon or measured by net income.

3 **SECTION 6.** Sections 1 to 5 of this 2009 Act apply to luxury items sold by retailers on  
4 or after January 1, 2010.

5 **SECTION 7.** (1) The Higher Education Support Fund is established in the State Treasury,  
6 separate and distinct from the General Fund. Interest earned on the Higher Education Sup-  
7 port Fund shall be credited to the fund.

8 (2) All moneys in the Higher Education Support Fund are continuously appropriated to  
9 the State Board of Higher Education for purposes authorized by law.

10