

Senate Bill 499

Sponsored by Senators ATKINSON, BATES; Senator STARR (at the request of Brammo Motorsports)

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**.

Allows business energy tax credit for alternative fuel vehicle manufacturing facility. Applies to certifications issued on or after effective date of Act and to tax years beginning on or after January 1, 2010.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to a tax credit for alternative fuel vehicle manufacturing facilities; creating new provisions;
3 amending ORS 469.185 and 469.205; and prescribing an effective date.

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

5 **SECTION 1.** ORS 469.185 is amended to read:

6 469.185. As used in ORS 469.185 to 469.225 and 469.878:

7 (1) "Alternative fuel vehicle" means a vehicle as defined by the Director of the State Depart-
8 ment of Energy by rule that is used primarily in connection with the conduct of a trade or business
9 and that is manufactured or modified to use an alternative fuel, including but not limited to elec-
10 tricity, ethanol, methanol, gasohol and propane or natural gas, regardless of energy consumption
11 savings.

12 (2) "Car sharing facility" means the expenses of operating a car sharing program, including but
13 not limited to the fair market value of parking spaces used to store the fleet of cars available for
14 a car sharing program, but does not include the costs of the fleet of cars.

15 (3) "Car sharing program" means a program in which drivers pay to become members in order
16 to have joint access to a fleet of cars from a common parking area on an hourly basis. "Car sharing
17 program" does not include operations conducted by car rental agencies.

18 (4) "Cost" means the capital costs and expenses necessarily incurred in the acquisition, erection,
19 construction and installation of a facility, including site development costs and expenses for a
20 sustainable building practices facility.

21 (5) "Energy facility" means any capital investment for which the first year energy savings yields
22 a simple payback period of greater than one year. An energy facility includes:

23 (a) Any land, structure, building, installation, excavation, machinery, equipment or device, or
24 any addition to, reconstruction of or improvement of, land or an existing structure, building, instal-
25 lation, excavation, machinery, equipment or device necessarily acquired, erected, constructed or in-
26 stalled by any person in connection with the conduct of a trade or business and actually used in the
27 processing or utilization of renewable energy resources to:

28 (A) Replace a substantial part or all of an existing use of electricity, petroleum or natural gas;

29 (B) Provide the initial use of energy where electricity, petroleum or natural gas would have been
30 used;

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 (C) Generate electricity to replace an existing source of electricity or to provide a new source
2 of electricity for sale by or use in the trade or business;

3 (D) Perform a process that obtains energy resources from material that would otherwise be solid
4 waste as defined in ORS 459.005; or

5 (E) Manufacture or distribute alternative fuels, including but not limited to electricity, ethanol,
6 methanol, gasohol or biodiesel.

7 (b) Any acquisition of, addition to, reconstruction of or improvement of land or an existing
8 structure, building, installation, excavation, machinery, equipment or device necessarily acquired,
9 erected, constructed or installed by any person in connection with the conduct of a trade or business
10 in order to substantially reduce the consumption of purchased energy.

11 (c) A necessary feature of a new commercial building or multiple unit dwelling, as dwelling is
12 defined by ORS 469.160, that causes that building or dwelling to exceed an energy performance
13 standard in the state building code.

14 (d) The replacement of an electric motor with another electric motor that substantially reduces
15 the consumption of electricity.

16 (6) "Facility" means an energy facility, recycling facility, transportation facility, car sharing
17 facility, sustainable building practices facility, alternative fuel vehicle or facilities necessary to op-
18 erate alternative fuel vehicles, including but not limited to an alternative fuel vehicle refueling
19 station, **alternative fuel vehicle manufacturing facility**, a high-efficiency combined heat and
20 power facility, a high-performance home, a homebuilder-installed renewable energy system, or a
21 renewable energy resource equipment manufacturing facility.

22 (7) "High-efficiency combined heat and power facility" means a device or equipment that simul-
23 taneously produces heat and electricity from a single source of fuel and that meets the criteria es-
24 tablished for a high-efficiency combined heat and power facility under ORS 469.197.

25 (8) "High-performance home" means a new single-family dwelling that:

26 (a) Is designed and constructed to reduce net purchased energy through use of both energy ef-
27 ficiency and on-site renewable energy resources; and

28 (b) Meets the criteria established for a high-performance home under ORS 469.197.

29 (9) "Homebuilder-installed renewable energy system" means a renewable energy resource system
30 that:

31 (a) Meets the criteria established for a renewable energy resource system under ORS 469.197;
32 and

33 (b) Is installed in a new single-family dwelling by, or at the direction of, the homebuilder con-
34 structing the dwelling.

35 (10) "Qualified transit pass contract" means a purchase agreement entered into between a
36 transportation provider and a person, the terms of which obligate the person to purchase transit
37 passes on behalf or for the benefit of employees, students, patients or other individuals over a
38 specified period of time.

39 (11) "Recycling facility" means equipment used by a trade or business solely for recycling:

40 (a) Including:

41 (A) Equipment used solely for hauling and refining used oil;

42 (B) New vehicles or modifications to existing vehicles used solely to transport used recyclable
43 materials that cannot be used further in their present form or location such as glass, metal, paper,
44 aluminum, rubber and plastic;

45 (C) Trailers, racks or bins that are used for hauling used recyclable materials and are added to

1 or attached to existing waste collection vehicles; and

2 (D) Any equipment used solely for processing recyclable materials such as bailers, flatteners,
3 crushers, separators and scales.

4 (b) But not including equipment used for transporting or processing scrap materials that are
5 recycled as a part of the normal operation of a trade or business as defined by the director.

6 (12)(a) "Renewable energy resource" includes, but is not limited to:

7 (A) Straw, forest slash, wood waste or other wastes from farm or forest land, nonpetroleum plant
8 or animal based biomass, ocean wave energy, solar energy, wind power, water power or geothermal
9 energy; or

10 (B) A hydroelectric generating facility that obtains all applicable permits and complies with all
11 state and federal statutory requirements for the protection of fish and wildlife and:

12 (i) That does not exceed 10 megawatts of installed capacity; or

13 (ii) Qualifies as a research, development or demonstration facility.

14 (b) "Renewable energy resource" does not include a hydroelectric generating facility that is not
15 described in paragraph (a) of this subsection.

16 (13) "Renewable energy resource equipment manufacturing facility" means any structure, build-
17 ing, installation, excavation, machinery, equipment or device, or an addition, reconstruction or im-
18 provement to land or an existing structure, building, installation, excavation, machinery, equipment
19 or device, that is necessarily acquired, constructed or installed by a person in connection with the
20 conduct of a trade or business, that is used primarily to manufacture equipment, machinery or other
21 products designed to use a renewable energy resource and that meets the criteria established under
22 ORS 469.197.

23 (14) "Sustainable building practices facility" means a commercial building in which building
24 practices that reduce the amount of energy, water or other resources needed for construction and
25 operation of the building are used. "Sustainable building practices facility" may be further defined
26 by the State Department of Energy by rule, including rules that establish traditional building prac-
27 tice baselines in energy, water or other resource usage for comparative purposes for use in deter-
28 mining whether a facility is a sustainable building practices facility.

29 (15) "Transportation facility" means a transportation project that reduces energy use during
30 commuting to and from work or school, during work-related travel, or during travel to obtain med-
31 ical or other services, and may be further defined by the department by rule. "Transportation facil-
32 ity" includes, but is not limited to, a qualified transit pass contract or a transportation services
33 contract.

34 (16) "Transportation provider" means a public, private or nonprofit entity that provides trans-
35 portation services to members of the public.

36 (17) "Transportation services contract" means a contract that is related to a transportation fa-
37 cility, and may be further defined by the department by rule.

38 **SECTION 2.** ORS 469.205, as amended by section 3, chapter 29, Oregon Laws 2008, is amended
39 to read:

40 469.205. (1) Prior to erection, construction, installation or acquisition of a proposed facility, any
41 person may apply to the State Department of Energy for preliminary certification under ORS 469.210
42 if:

43 (a) The erection, construction, installation or acquisition of the facility is to be commenced on
44 or after October 3, 1979;

45 (b) The facility complies with the standards or rules adopted by the Director of the State De-

1 department of Energy; and

2 (c) The applicant meets one of the following criteria:

3 (A) The applicant is a person to whom a tax credit has been transferred; or

4 (B) The applicant will be the owner or contract purchaser of the facility at the time of erection,
5 construction, installation or acquisition of the proposed facility, and:

6 (i) The applicant is the owner, contract purchaser or lessee of a trade or business that plans to
7 utilize the facility in connection with Oregon property; or

8 (ii) The applicant is the owner, contract purchaser or lessee of a trade or business that plans
9 to lease the facility to a person who will utilize the facility in connection with Oregon property.

10 (2) An application for preliminary certification shall be made in writing on a form prepared by
11 the department and shall contain:

12 (a) A statement that the applicant or the lessee of the applicant's facility:

13 (A) Intends to convert from a purchased energy source to a renewable energy resource;

14 (B) Plans to acquire, construct or install a facility that will use a renewable energy resource
15 or solid waste instead of electricity, petroleum or natural gas;

16 (C) Plans to use a renewable energy resource in the generation of electricity for sale or to re-
17 place an existing or proposed use of an existing source of electricity;

18 (D) Plans to acquire, construct or install a facility that substantially reduces the consumption
19 of purchased energy;

20 (E) Plans to acquire, construct or install equipment for recycling as defined in ORS 469.185 (11);

21 (F) Plans to acquire an alternative fuel vehicle or to convert an existing vehicle to an alterna-
22 tive fuel vehicle;

23 (G) Plans to acquire, construct or install a facility necessary to operate alternative fuel vehicles;

24 **(H) Plans to acquire, construct or install an alternative fuel vehicle manufacturing fa-
25 cility;**

26 *[(H)]* (I) Plans to acquire transit passes for use by individuals specified by the applicant;

27 *[(I)]* (J) Plans to acquire, construct or install a transportation facility;

28 *[(J)]* (K) Plans to acquire a sustainable building practices facility;

29 *[(K)]* (L) Plans to acquire a car sharing facility and operate a car sharing program;

30 *[(L)]* (M) Plans to construct a high-efficiency combined heat and power facility;

31 *[(M)]* (N) Is a homebuilder and plans to construct a homebuilder-installed renewable energy
32 system;

33 *[(N)]* (O) Is a homebuilder and plans to construct a high-performance home; or

34 *[(O)]* (P) Plans to acquire, construct or install a renewable energy resource equipment manu-
35 facturing facility.

36 (b) A detailed description of the proposed facility and its operation and information showing that
37 the facility will operate as represented in the application.

38 (c) Information on the amount by which consumption of electricity, petroleum or natural gas by
39 the applicant or the lessee of the applicant's facility will be reduced, and on the amount of energy
40 that will be produced for sale, as the result of using the facility or, if applicable, information about
41 the expected level of sustainable building practices facility performance.

42 (d) The projected cost of the facility.

43 (e) If applicable, a copy of the proposed qualified transit pass contract, transportation services
44 contract or contract for lease of parking spaces for a car sharing facility.

45 (f) Any other information the director considers necessary to determine whether the proposed

1 facility is in accordance with the provisions of ORS 469.185 to 469.225, and any applicable rules or
2 standards adopted by the director.

3 (3) An application for preliminary certification shall be accompanied by a fee established under
4 ORS 469.217. The director may refund the fee if the application for certification is rejected.

5 (4) The director may allow an applicant to file the preliminary application after the start of
6 erection, construction, installation or acquisition of the facility if the director finds:

7 (a) Filing the application before the start of erection, construction, installation or acquisition is
8 inappropriate because special circumstances render filing earlier unreasonable; and

9 (b) The facility would otherwise qualify for tax credit certification pursuant to ORS 469.185 to
10 469.225.

11 (5) A preliminary certification of a sustainable building practices facility shall be applied for and
12 issued as prescribed by the department by rule.

13 (6) A preliminary certification of a renewable energy resource equipment manufacturing facility
14 shall remain valid for a period of five calendar years after the date the preliminary certification is
15 issued by the director.

16 **SECTION 3. The amendments to ORS 469.185 and 469.205 by sections 1 and 2 of this 2009**
17 **Act apply to certifications issued on or after the effective date of this 2009 Act and to tax**
18 **years beginning on or after January 1, 2010.**

19 **SECTION 4. This 2009 Act takes effect on the 91st day after the date on which the reg-**
20 **ular session of the Seventy-fifth Legislative Assembly adjourns sine die.**

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