

A-Engrossed
Senate Bill 88

Ordered by the Senate March 9
Including Senate Amendments dated March 9

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Theodore R. Kulongoski for Department of State Police)

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.

Increases fee for nonretail fuel facilities, operative July 1, 2009. Increases fee assessed for customers of nonretail fuel facilities, operative July 1, 2009, and July 1, 2010.

Reduces requirement that State Fire Marshal conduct annual audit of five percent of nonretail fuel facility accounts to 2.5 percent of facility accounts.

Reduces requirement that nonretail fuel facility purchase 900 gallons of fuel to 500 gallons of fuel.

Conforms unused contingency amendments to nonretail fuel facility operations statute with current version of statute.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to nonretail facilities; creating new provisions; amending ORS 480.345, 480.350 and 480.375;
3 repealing section 3, chapter 328, Oregon Laws 2001; and declaring an emergency.

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

5 **SECTION 1.** ORS 480.345 is amended to read:

6 480.345. Notwithstanding ORS 480.330 and 480.340, the owner, operator or employee of a dis-
7 pensing facility may permit nonretail customers other than the owner, operator or employee to use
8 or manipulate at the dispensing facility a card activated or key activated device for dispensing Class
9 1 flammable liquids into the fuel tank of a motor vehicle or other container under the following
10 conditions:

11 (1) The owner or operator shall hold a current nonretail facility license issued by the State Fire
12 Marshal under ORS 480.350;

13 (2) [*After April 1, 1992,*] A nonretail customer shall purchase at least [900] **500** gallons of Class
14 1 flammable liquids or diesel fuel from any source during a 12-month period or, if the amount of such
15 liquids or fuel purchased is less than [900] **500** gallons annually, file documentation that:

16 (a) The fuel qualifies as a deductible farming expense on the customer's federal income tax re-
17 turn; or

18 (b) The fuel was purchased by a governmental agency providing fire, ambulance or police ser-
19 vices;

20 (3) The nonretail customer shall provide a federal employer identification number or equivalent
21 documentation to indicate participation in a business or employment with a government agency or
22 nonprofit or charitable organization;

23 (4) The nonretail customer, other than the owner or operator, dispensing Class 1 flammable

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 liquids shall be employed by a business, government agency or nonprofit or charitable organization
2 and shall dispense Class 1 flammable liquids only into the fuel tank of a motor vehicle or other
3 container owned or used by the business, government agency or nonprofit or charitable organization;

4 (5) The nonretail customer, other than the owner, operator or employee, dispensing Class 1
5 flammable liquids shall have satisfied safety training requirements in compliance with rules of the
6 State Fire Marshal; and

7 (6) The owner or operator shall enter into a written agreement with nonretail customers per-
8 mitted under this section to dispense fuel at the nonretail facility. Except as otherwise provided in
9 ORS 480.355, the agreement shall at a minimum:

10 (a) Certify that the nonretail customer will purchase at least [900] 500 gallons of Class 1
11 flammable liquids or diesel fuel from any source during a 12-month period or, if the amount of such
12 liquids or fuel purchased is less than [900] 500 gallons annually, file documentation that:

13 (A) The fuel qualifies as a deductible farming expense on the customer's federal income tax re-
14 turn; or

15 (B) The fuel was purchased by a governmental agency providing fire, ambulance or police ser-
16 vices;

17 (b) Provide a federal employer identification number or equivalent documentation to indicate
18 participation in a business or employment with a government agency or nonprofit or charitable or-
19 ganization;

20 (c) Certify that the nonretail customer is employed by a business, government agency or
21 nonprofit or charitable organization and that the nonretail customer shall dispense Class 1
22 flammable liquids only into the fuel tank of a motor vehicle or other container owned or used by
23 the business, government agency or nonprofit or charitable organization;

24 (d) Certify that the nonretail customer has satisfied safety training requirements in compliance
25 with rules of the State Fire Marshal; and

26 (e) Require the nonretail customer to submit a sworn statement, as defined in ORS 162.055, that
27 the information supplied in the agreement is true and correct.

28 **SECTION 2.** ORS 480.345, as amended by section 2, chapter 328, Oregon Laws 2001, is amended
29 to read:

30 480.345. Notwithstanding ORS 480.330 and 480.340, the owner, operator or employee of a dis-
31 pensing facility may permit nonretail customers other than the owner, operator or employee to use
32 or manipulate at the dispensing facility a card activated or key activated device for dispensing Class
33 1 flammable liquids into the fuel tank of a motor vehicle or other container under the following
34 conditions:

35 (1) The owner or operator shall hold a current nonretail facility license issued by the State Fire
36 Marshal under ORS 480.350;

37 (2) [After April 1, 1992,] A nonretail customer shall purchase at least [2,400] 500 gallons of Class
38 1 flammable liquids or diesel fuel from any source during a 12-month period or, if the amount of such
39 liquids or fuel purchased is less than [2,400] 500 gallons annually, file documentation that:

40 (a) The fuel qualifies as a deductible farming expense on the customer's federal income tax re-
41 turn; or

42 (b) The fuel was purchased by a governmental agency providing fire, ambulance or police ser-
43 vices;

44 (3) The nonretail customer shall provide a federal employer identification number or equivalent
45 documentation to indicate participation in a business or employment with a government agency or

1 nonprofit or charitable organization;

2 (4) The nonretail customer, other than the owner or operator, dispensing Class 1 flammable
3 liquids shall be employed by a business, government agency or nonprofit or charitable organization
4 and shall dispense Class 1 flammable liquids only into the fuel tank of a motor vehicle or other
5 container owned [and] **or** used by the business, government agency or nonprofit or charitable or-
6 ganization;

7 (5) The nonretail customer, other than the owner, operator or employee, dispensing Class 1
8 flammable liquids shall have satisfied safety training requirements in compliance with rules of the
9 State Fire Marshal; and

10 (6) The owner or operator shall enter into a written agreement with nonretail customers per-
11 mitted under this section to dispense fuel at the nonretail facility. Except as otherwise provided in
12 ORS 480.355, the agreement shall at a minimum:

13 (a) Certify that the nonretail customer will purchase at least [2,400] **500** gallons of Class 1
14 flammable liquids or diesel fuel from any source during a 12-month period or, if the amount of such
15 liquids or fuel purchased is less than [2,400] **500** gallons annually, file documentation that:

16 (A) The fuel qualifies as a deductible farming expense on the customer's federal income tax re-
17 turn; or

18 (B) The fuel was purchased by a governmental agency providing fire, ambulance or police ser-
19 vices;

20 (b) Provide a federal employer identification number or equivalent documentation to indicate
21 participation in a business or employment with a government agency or nonprofit or charitable or-
22 ganization;

23 (c) Certify that the nonretail customer is employed by a business, government agency or
24 nonprofit or charitable organization and that the nonretail customer shall dispense Class 1
25 flammable liquids only into the fuel tank of a motor vehicle or other container owned [and] **or** used
26 by the business, government agency or nonprofit or charitable organization;

27 (d) Certify that the nonretail customer has satisfied safety training requirements in compliance
28 with rules of the State Fire Marshal; and

29 (e) Require the nonretail customer to submit a sworn statement, as defined in ORS 162.055, that
30 the information supplied in the agreement is true and correct.

31 **SECTION 3. Section 3, chapter 328, Oregon Laws 2001, is repealed.**

32 **SECTION 4.** ORS 480.350 is amended to read:

33 480.350. (1) Except as provided in ORS 480.355, a nonretail facility shall not operate without a
34 license issued under this section.

35 (2) The State Fire Marshal shall issue a nonretail facility license to a person if the person sub-
36 mits an application to the State Fire Marshal on a form approved by the State Fire Marshal for each
37 nonretail facility and the application includes:

38 (a) A statement that the applicant will comply with the requirements of ORS 480.345;

39 (b) A copy of the form that will be used by the applicant as the agreement required under ORS
40 480.345 between the applicant and nonretail customers permitted to dispense fuel at the nonretail
41 facility;

42 (c) A sworn statement, as defined in ORS 162.055, that information supplied in the application
43 is true and correct; and

44 (d) An application fee of [\$250] **\$300**.

45 (3) The applicant for a nonretail facility license shall bear the burden of proof that the re-

1 requirements of this section and of any rules of the State Fire Marshal adopted to implement this
2 section are satisfied.

3 (4) In addition to any license or renewal fees, a licensee shall pay an annual fee of [~~\$5~~] **\$7.50**
4 for each nonretail customer that enters into a written agreement with the owner or operator of the
5 nonretail facility under ORS 480.345.

6 (5) A license issued under this section shall be valid for a period of one year from the date of
7 issuance.

8 (6) A license may be renewed upon payment to the State Fire Marshal of an annual license re-
9 newal fee of [~~\$250~~] **\$300**.

10 (7) All fees received by the State Fire Marshal pursuant to this section shall be deposited with
11 the State Treasurer and shall be placed in the State Fire Marshal Fund.

12 **SECTION 5.** ORS 480.350, as amended by section 4 of this 2009 Act, is amended to read:

13 480.350. (1) Except as provided in ORS 480.355, a nonretail facility shall not operate without a
14 license issued under this section.

15 (2) The State Fire Marshal shall issue a nonretail facility license to a person if the person sub-
16 mits an application to the State Fire Marshal on a form approved by the State Fire Marshal for each
17 nonretail facility and the application includes:

18 (a) A statement that the applicant will comply with the requirements of ORS 480.345;

19 (b) A copy of the form that will be used by the applicant as the agreement required under ORS
20 480.345 between the applicant and nonretail customers permitted to dispense fuel at the nonretail
21 facility;

22 (c) A sworn statement, as defined in ORS 162.055, that information supplied in the application
23 is true and correct; and

24 (d) An application fee of \$300.

25 (3) The applicant for a nonretail facility license shall bear the burden of proof that the re-
26 quirements of this section and of any rules of the State Fire Marshal adopted to implement this
27 section are satisfied.

28 (4) In addition to any license or renewal fees, a licensee shall pay an annual fee of [~~\$7.50~~] **\$10**
29 for each nonretail customer that enters into a written agreement with the owner or operator of the
30 nonretail facility under ORS 480.345.

31 (5) A license issued under this section shall be valid for a period of one year from the date of
32 issuance.

33 (6) A license may be renewed upon payment to the State Fire Marshal of an annual license re-
34 newal fee of \$300.

35 (7) All fees received by the State Fire Marshal pursuant to this section shall be deposited with
36 the State Treasurer and shall be placed in the State Fire Marshal Fund.

37 **SECTION 6.** (1) **The amendments to ORS 480.350 by section 4 of this 2009 Act become**
38 **operative on July 1, 2009.**

39 (2) **The amendments to ORS 480.350 by section 5 of this 2009 Act become operative on**
40 **July 1, 2010.**

41 **SECTION 7.** ORS 480.375 is amended to read:

42 480.375. (1) The State Fire Marshal shall conduct an annual safety inspection at all nonretail
43 and dual operations facilities dispensing Class 1 flammable liquids to determine if the facility is op-
44 erating in compliance with the provisions of ORS 480.315 to 480.385 or of any applicable rule
45 adopted by the State Fire Marshal.

1 (2) The State Fire Marshal shall conduct annual audits of at least [*five*] **2.5** percent of all
2 nonretail accounts to determine if nonretail facilities are in compliance with the provisions of ORS
3 480.315 to 480.385 and any applicable rule adopted by the State Fire Marshal.

4 (3) The State Fire Marshal shall have the same authority to enter into all buildings and upon
5 all dispensing facilities for the purpose of inspection as is specified in ORS chapter 476 relating to
6 inspection of fire hazards.

7 (4) Upon receiving a complaint, or upon the State Fire Marshal's own motion, the State Fire
8 Marshal shall investigate whether a violation of any provision of ORS 480.315 to 480.385 or of any
9 applicable rule of the State Fire Marshal has occurred.

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

13 _____