

Senate Bill 88

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 **as introduced**.

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.

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 and 480.350; repeal-
3 ing 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 480.350 is amended to read:

6 480.350. (1) Except as provided in ORS 480.355, a nonretail facility shall not operate without a
7 license issued under this section.

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

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

12 (b) A copy of the form that will be used by the applicant as the agreement required under ORS
13 480.345 between the applicant and nonretail customers permitted to dispense fuel at the nonretail
14 facility;

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

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

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

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

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

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

28 (7) All fees received by the State Fire Marshal pursuant to this section shall be deposited with

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 the State Treasurer and shall be placed in the State Fire Marshal Fund.

2 **SECTION 2.** ORS 480.350, as amended by section 1 of this 2009 Act, is amended to read:

3 480.350. (1) Except as provided in ORS 480.355, a nonretail facility shall not operate without a
4 license issued under this section.

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

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

9 (b) A copy of the form that will be used by the applicant as the agreement required under ORS
10 480.345 between the applicant and nonretail customers permitted to dispense fuel at the nonretail
11 facility;

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

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

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

18 (4) In addition to any license or renewal fees, a licensee shall pay an annual fee of [~~\$7.50~~] **\$10.00**
19 for each nonretail customer that enters into a written agreement with the owner or operator of the
20 nonretail facility under ORS 480.345.

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

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

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

27 **SECTION 3. (1) The amendments to ORS 480.350 by section 1 of this 2009 Act become**
28 **operative July 1, 2009.**

29 **(2) The amendments to ORS 480.350 by section 2 of this 2009 Act become operative July**
30 **1, 2010.**

31 **SECTION 4.** ORS 480.345, as amended by section 2, chapter 328, Oregon Laws 2001, is amended
32 to read:

33 480.345. Notwithstanding ORS 480.330 and 480.340, the owner, operator or employee of a dis-
34 pensing facility may permit nonretail customers other than the owner, operator or employee to use
35 or manipulate at the dispensing facility a card activated or key activated device for dispensing Class
36 1 flammable liquids into the fuel tank of a motor vehicle or other container under the following
37 conditions:

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

40 (2) After April 1, 1992, a nonretail customer shall purchase at least [~~2,400~~] **900** gallons of Class
41 1 flammable liquids or diesel fuel from any source during a 12-month period or, if the amount of such
42 liquids or fuel purchased is less than [~~2,400~~] **900** gallons annually, file documentation that:

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

45 (b) The fuel was purchased by a governmental agency providing fire, ambulance or police ser-

1 vices;

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

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

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

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

16 (a) Certify that the nonretail customer will purchase at least [2,400] 900 gallons of Class 1
 17 flammable liquids or diesel fuel from any source during a 12-month period or, if the amount of such
 18 liquids or fuel purchased is less than [2,400] 900 gallons annually, file documentation that:

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

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

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

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

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

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

34 **SECTION 5. Section 3, chapter 328, Oregon Laws 2001, is repealed.**

35 **SECTION 6. This 2009 Act being necessary for the immediate preservation of the public
 36 peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect
 37 on its passage.**