

SENATE AMENDMENTS TO SENATE BILL 88

By COMMITTEE ON BUSINESS AND TRANSPORTATION

March 9

1 On page 1 of the printed bill, line 2, after “480.345” delete the rest of the line and insert “,
2 480.350 and 480.375; repeal”.

3 Delete lines 5 through 28 and delete pages 2 and 3 and insert:

4 “**SECTION 1.** ORS 480.345 is amended to read:

5 “480.345. Notwithstanding ORS 480.330 and 480.340, the owner, operator or employee of a dis-
6 pensing facility may permit nonretail customers other than the owner, operator or employee to use
7 or manipulate at the dispensing facility a card activated or key activated device for dispensing Class
8 1 flammable liquids into the fuel tank of a motor vehicle or other container under the following
9 conditions:

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

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

15 “(a) The fuel qualifies as a deductible farming expense on the customer’s federal income tax
16 return; or

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

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

22 “(4) The nonretail customer, other than the owner or operator, dispensing Class 1 flammable
23 liquids shall be employed by a business, government agency or nonprofit or charitable organization
24 and shall dispense Class 1 flammable liquids only into the fuel tank of a motor vehicle or other
25 container owned or used by the business, government agency or nonprofit or charitable organization;

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

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

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

35 “(A) The fuel qualifies as a deductible farming expense on the customer’s federal income tax

1 return; or

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

4 “(b) Provide a federal employer identification number or equivalent documentation to indicate
5 participation in a business or employment with a government agency or nonprofit or charitable or-
6 ganization;

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

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

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

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

17 “480.345. Notwithstanding ORS 480.330 and 480.340, the owner, operator or employee of a dis-
18 pensing facility may permit nonretail customers other than the owner, operator or employee to use
19 or manipulate at the dispensing facility a card activated or key activated device for dispensing Class
20 1 flammable liquids into the fuel tank of a motor vehicle or other container under the following
21 conditions:

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

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

27 “(a) The fuel qualifies as a deductible farming expense on the customer’s federal income tax
28 return; or

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

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

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

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

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

45 “(a) Certify that the nonretail customer will purchase at least [2,400] **500** gallons of Class 1

1 flammable liquids or diesel fuel from any source during a 12-month period or, if the amount of such
2 liquids or fuel purchased is less than [2,400] **500** gallons annually, file documentation that:

3 “(A) The fuel qualifies as a deductible farming expense on the customer’s federal income tax
4 return; or

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

7 “(b) Provide a federal employer identification number or equivalent documentation to indicate
8 participation in a business or employment with a government agency or nonprofit or charitable or-
9 ganization;

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

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

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

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

19 **“SECTION 4.** ORS 480.350 is amended to read:

20 “480.350. (1) Except as provided in ORS 480.355, a nonretail facility shall not operate without
21 a license issued under this section.

22 “(2) The State Fire Marshal shall issue a nonretail facility license to a person if the person
23 submits an application to the State Fire Marshal on a form approved by the State Fire Marshal for
24 each nonretail facility and the application includes:

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

26 “(b) A copy of the form that will be used by the applicant as the agreement required under ORS
27 480.345 between the applicant and nonretail customers permitted to dispense fuel at the nonretail
28 facility;

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

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

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

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

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

40 “(6) A license may be renewed upon payment to the State Fire Marshal of an annual license
41 renewal fee of [\$250] **\$300**.

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

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

45 “480.350. (1) Except as provided in ORS 480.355, a nonretail facility shall not operate without

1 a license issued under this section.

2 “(2) The State Fire Marshal shall issue a nonretail facility license to a person if the person
3 submits an application to the State Fire Marshal on a form approved by the State Fire Marshal for
4 each nonretail facility and the application includes:

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

6 “(b) A copy of the form that will be used by the applicant as the agreement required under ORS
7 480.345 between the applicant and nonretail customers permitted to dispense fuel at the nonretail
8 facility;

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

11 “(d) An application fee of \$300.

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

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

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

20 “(6) A license may be renewed upon payment to the State Fire Marshal of an annual license
21 renewal fee of \$300.

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

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

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

28 “**SECTION 7.** ORS 480.375 is amended to read:

29 “480.375. (1) The State Fire Marshal shall conduct an annual safety inspection at all nonretail
30 and dual operations facilities dispensing Class 1 flammable liquids to determine if the facility is op-
31 erating in compliance with the provisions of ORS 480.315 to 480.385 or of any applicable rule
32 adopted by the State Fire Marshal.

33 “(2) The State Fire Marshal shall conduct annual audits of at least [~~five~~] **2.5** percent of all
34 nonretail accounts to determine if nonretail facilities are in compliance with the provisions of ORS
35 480.315 to 480.385 and any applicable rule adopted by the State Fire Marshal.

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

39 “(4) Upon receiving a complaint, or upon the State Fire Marshal’s own motion, the State Fire
40 Marshal shall investigate whether a violation of any provision of ORS 480.315 to 480.385 or of any
41 applicable rule of the State Fire Marshal has occurred.

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