



Oregon

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DATE: April 14, 2011
TO: House Committee on Revenue
FROM: James Whitty, Manager
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SUBJECT: House Bill 2328A

INTRODUCTION

Enactment of House Bill 2328A will establish a new tax—a *vehicle road usage charge*—on operators of electric and plug-in hybrid vehicles on January 1, 2014 beginning with the 2014 model year. ODOT, cities and counties will use the revenues raised by this new tax to operate, maintain and build highways and bridges of the state and local jurisdictions. The concept for this legislation was developed by the state's Road User Fee Task Force, a policy body with a nine-year history that was created by the 2001 Legislative Assembly.

BACKGROUND

Technology for vehicle fuel consumption has improved dramatically over the past decade since the early hybrid electric gasoline vehicles came to market. Vehicles that get 50 miles per gallon are now common on the state's roads and streets. Now entering the marketplace are electric and plug-in hybrid vehicles that will pay no fuel tax or only a tiny amount. Two factors drive this development; (1) the increased public demand for fuel efficiency improvements to the new vehicle fleet for reasons of climate change and the rising price of oil and (2) the federal government's new requirement for increase of the national Corporate Average Fuel Economy standards (CAFE) to 35.5 miles per gallon by 2016. This CAFE requirement breaks down to an average of 42 miles per gallon for cars and an average of 26 miles per gallon for light trucks.

We have entered a new age of vehicle fuel efficiency. As a result, policymakers and industry analysts across the nation now agree that the fuel tax can no longer be relied upon to provide sustainable revenues for the nation's roadway infrastructure. Essentially everyone agrees that operators of the new highly efficient electric plug-in vehicles should pay for their use of the road system. There are two questions. What should they pay and when should they pay it? There are two basic payment options: a flat fee paid per year or a tax based on use. Given Oregon's 92-year policy that users of the roads should pay for them, the state's Road User Fee Task Force determined that the operators of the new highly energy efficient vehicles should pay a mileage-based tax as it would best parallel the broadly applied fuel tax for standard vehicles.

Nine years of learning led to the legislation before you. Through direct contact with citizens, the Road User Fee Task Force learned several critical lessons; (1) do not mandate a GPS box for motorists' cars; (2) provide motorists choices for how they report their mileage; (3) allow the private sector to provide data collection options and payment options; (4) allow the vehicle technology to evolve with improvements and motorists preferences through an open system platform. The task force designed HB 2328A with these lessons in mind.

MEASURE: HB 2328
EXHIBIT: HOUSE REVENUE COMMITTEE
DATE: 4/14/2011 PAGES: 8
SUBMITTED BY: JIM WHITTY

WHAT THE BILL DOES

House Bill 2328A imposes a vehicle road usage charge (VRUC) on resident owners and lessees of electric and plug-in hybrid electric motor vehicles based on miles traveled within the state. (Section 12) The bill allows for a refund or credit of any fuel taxes the registered owner pays. (Sections 24 and 28) To determine the tax, the bill requires motorists to electronically report their miles driven to ODOT on a periodic basis, as often as monthly, but the department can consider less frequent alternatives as well. (Section 8)

Electronic reporting of mileage data is important because the alternative—manual reporting—would not only require dealing with owners who fail to report their mileage, but also fraudulent reporting and transposition errors, all of which would require extensive taxpayer interaction to resolve. Manual reporting would also require manual data entry and provide essentially no audit trail resulting in many new government employees, large administrative costs and lower net revenue. An electronic reporting system will lead to automatic and accurate mileage data collection and reporting, minimal customer interface, an audit trail and therefore low administrative costs and greater net revenue.

The bill allows up to 5,000 motorists to voluntarily choose to pay the VRUC in lieu of the fuel tax provided they drive a vehicle weighing less than 10,000 pounds that is not an electric or plug-in hybrid electric vehicle. The vehicles used for this purpose must be capable of electronically reporting mileage from the odometer. (Section 2)

The VRUC Rate. The A-Engrossed version of the bill sets the rate for the vehicle road usage charge at 1.43 cents per mile, a level equivalent to what the average motor vehicle currently pays in state gas tax (i.e., 30 cents per gallon/21 mpg). (Section 2)

Methods of Mileage Reporting. HB 2328A requires ODOT to establish the methods by which motorists electronically report their miles driven and sets forth policies to direct the department in developing these methods. The bill requires that at least one of mileage data reporting methods developed by ODOT must *not* use vehicle location technologies. To this end, the bill allows the department to require electronic reporting of the odometer reading as one method. (Section 3) Providing the technology for electronic reporting of an odometer reading is the responsibility of the owner rather than the manufacturer but current electric and plug-in hybrid electric vehicles already have one existing means of providing an electronic odometer reading through the vehicle's on-board diagnostic port.

This reference to multiple methods of reporting implies motorists will have choices to determine the reporting method they prefer. This means motorists will be able to electronically report their miles by a method that does *not* involve a GPS receiver or anything like it. (Section 3) The bill does allow ODOT to develop a reporting option based on GPS, however, as an option allows some motorists to voluntarily choose to use their own GPS units for mileage reporting. A motorist frequently driving out of state may want this option because the department may assume

all miles are driven within Oregon unless a motorist presents evidence otherwise. (Section 8)
The bill also allows manual reporting of miles driven on private property. (Sections 5 and 6)

The bill requires the department to establish standards under an open system for the technology used. This will allow the department to avoid being bound to a proprietary system where the evolution of the technology becomes dependent upon one provider. (Section 3)

Allocation of Net Revenues. The bill applies an apportionment formula to allocate this new revenue between the state (50%), cities (20%) and counties (30%). (Section 7)

Penalties for Noncompliance. As a revenue measure, the bill's penalty and collection provisions are largely derived from the existing diesel tax statutes.

HB 2328A contains the following penalty and collection provisions designed to drive compliance:

- Provides for a \$25 penalty for the first delinquent payment, rising to \$50 for subsequent delinquent payments. This amount shall be added to the amount due with interest. (Section 9)
- Allows the department to engage in collection activities for satisfaction of delinquent obligations. (Sections 10, 11 and 12)
- Allows the department to audit mileage reports and make assessments based on the information available. (Section 13)
- In the event of non-reporting of mileage, the department may make an assessment on an estimate of the amount due based on the information available. (Section 14)
- Provides a motorist the right to petition for a reassessment within 30 days of notice of assessment and the right to appeal to circuit court. (Sections 15 and 16)
- Places a time limit of three years on the department's ability to serve notice of assessment except for submission of a fraudulent mileage report or failure to submit a mileage report. (Section 17)
- Protects privacy of vehicle owner or lessee under investigation by the department. (Section 18)
- Prohibits false statements in mileage reports and intentional collection or receipt of a refund, charge or penalty paid to the department. (Section 19)
- Violation of the reporting, collection and penalty provisions of the VRUC constitutes a Class A violation. (Section 20)
- Tampering with a vehicle metering system constitutes a Class A violation. (Section 22)
- Allows the department to suspend the driving privileges of a person failing to pay the vehicle road usage charge or penalty and prohibits the department from issuing a hardship permit. (Sections 23 and 30)

Application of Use Fuel Statutes. Exempts a person who uses diesel fuel in a plug-in hybrid electric motor vehicle from obtaining a user's license. Allows a plug-in hybrid electric vehicle that uses diesel fuel to be issued an emblem that allows purchase of diesel fuel without paying

the use fuel tax. Allows fuel sellers to not collect the use fuel tax for dispensing diesel fuel in the fuel tank of a diesel plug-in hybrid electric motor vehicle. (Sections 25, 26 and 27)

Innovative Partnerships. The bill enables the department to establish public private partnerships so that motorists could choose third parties to provide for collection of mileage data and payment of the VRUC. (Section 29)

Operative Date. The operative date for this bill is January 1, 2014 for 2014 and later model year vehicles. Electric and plug-in hybrid vehicles registered in Oregon for prior model years would not be subject to the vehicle road usage charge. (Sections 32 and 33)

SUMMARY

Operators of electric vehicles should pay something for use of Oregon roads and bridges. Oregon will need this new mileage based tax system once the emerging highly efficient vehicle fleet begins to take up significant space on the road system. To prepare for this soon-to-come day, the new vehicle road usage charge system should be developed, tested and implemented in a low risk environment with a small group of vehicles. The emerging electric vehicle fleet provides this opportunity. To wait to apply a distance based charge on this new fleet of vehicles until they constitute larger numbers will increase costs and complexity for development of the new system. The time to develop the new system is when the number of vehicles is small. ODOT recommends passage of HB 2328A.

Attachment: HB2328A Section by Section Review

HB 2328A Section by Section Review

Section 1. Definitions. Defines “electric motor vehicle,” “plug-in hybrid electric vehicle,” “highway,” “lessee,” and “registered owner” for purposes of this bill.

Section 2. Vehicle Road Usage Charge. Requires the registered owners and lessees of electric motor vehicles and plug-in hybrid motor vehicles to pay a *vehicle road usage charge (VRUC)*. This requirement to pay a *vehicle road usage charge* does not apply to a vehicle dealer holding a vehicle dealer certificate as required by statute. A person operating a vehicle of 10,000 pounds or less that is capable of electronically reporting mileage from the odometer may elect to pay the VRUC in lieu of the fuel tax through submitting an application to ODOT but the maximum number of motor vehicles that may qualify is limited to 5,000.

Vehicles paying a *vehicle road usage charge (VRUC)* shall pay 1.43 cents per mile for use of Oregon highways. This requirement to pay a *vehicle road usage charge* does not apply to a vehicle dealer holding a vehicle dealer certificate as required by statute.

Section 3. Methods of reporting vehicle miles traveled. Requires ODOT to establish methods for identifying motor vehicles subject to the VRUC and establish methods for reporting the number of miles the vehicles traveled on the highway system. When establishing these methods, ODOT must take into account the accuracy of the data collected, privacy options for payers of the VRUC, adaptability of the technology, safe installation of the technology and tamper-resistant technology.

Requires at least one method of collecting and reporting the number of miles traveled by a motor vehicle must not use vehicle location technology. ODOT may require a vehicle subject to the VRUC to be capable of electronically reporting the odometer reading or be equipped with technology capable of doing so. Requires ODOT to establish standards under an open system for technology used in methods for identifying vehicles subject to the VRUC and methods for reporting the number of miles traveled on the highway system. Defines “open system.” In developing the standards and systems, requires ODOT to collaborate with state agencies to integrate information systems currently in use or planned for future use.

Section 4. Collection by Department of Transportation. Requires ODOT to provide by rule for collection of the VRUC.

Section 5. Refund of VRUC for operation of vehicles on certain roads or property. Allows registered owner who pays the VRUC to apply for a refund for travel on private roads within a 15-month period after payment of the VRUC. The department could require additional information in addition to the signed statement.

Section 6. Investigation of refund applications. Allows the department to investigate refund claims to safeguard the state and prevent fraud. A refund applicant waives the right to a refund if the applicant does not permit the department to investigate the refund application.

Section 7. Allocation of moneys. Allocates the revenue raised by the VRUC, net of collections cost, to ODOT (50 percent), to counties (30 percent) and to cities (20 percent).

Section 8. Reporting vehicle miles traveled. Requires a person subject to the VRUC to equip their electric motor vehicle or plug-in hybrid electric motor vehicle with ODOT approved technology for electronic reporting of miles traveled.

Each month, persons subject to the VRUC shall report the number of miles traveled and pay to ODOT the amount due for the preceding month. ODOT may provide rules permitting persons subject to the VRUC to report and pay on other than a monthly basis. Requires ODOT to describe the process a person may request and receive an alternate reporting and payment schedule.

Unless a person subject to the VRUC presents evidence that a vehicle was driven outside Oregon, ODOT may assume all miles reported were driven within Oregon. The manner of presenting evidence shall be determined by ODOT rule.

Requires ODOT to provide a refund to a person who has overpaid the VRUC and this refund may be a credit against future charges, as provided by rule.

Sections 9. Provides for a \$25 penalty if the person subject to the VRUC does not timely pay the VRUC. This penalty increases to \$50 for subsequent failures to timely pay the VRUC. The penalty can be waived if the delinquency is due to reasonable cause and without any intent to avoid payment. It also allows for interest of .03929 %/day until the VRUC and interest is paid in full. The department must give the person charged with a penalty written notice, which may be by e-mail.

Section 10: Allows the department to issue a warrant that allows for seizing real and personal property and selling it to satisfy the lien. This includes the ability to levy upon funds possessed by the Department of Revenue.

Section 11: Allows the department to use a collection agency to collect on any obligations created by this Act.

Section 12: Provides for assigning an uncollectible debt to the Secretary of State if the debt remains uncollected for two years after it becomes uncollectible.

Section 13: Allows the department to audit VRUC reports. If the department determines that the report is the VRUC paid is not accurate or, then it may assess the charge and penalty based

on whatever information it has. The assessment must be in writing and served personally, by email or by regular mail.

Section 14: Allows the department to estimate the amount due and assess penalty on that amount for failure to report. The assessment must be in writing and served personally, by email or by regular mail.

Section 15: Allows the registered owner to petition for reassessment within 30 days after notice of the assessment. Failure to timely request reassessment results in the amount of the assessment becoming conclusive. If the request is timely, the department must reassess. If the person requests a hearing, then the department must provide notice of the hearing within 10 days. Any reassessment finding must be served on the registered owner.

Section 16: Allows the registered owner to appeal to circuit court within 60 days from the date of the reassessment.

Section 17: Allows the department three years from the date the report should have been filed to serve a notice of assessment on the registered owner except for cases of alleged fraud, neglect or refusal to make a report.

Section 18: Requires the department to not disclose information about its investigations to anyone other than another state official.

Section 19: Prohibits making false statements in reports, petitions, or applications including for refunds.

Section 20: Provides that violations of the Act is a Class A violation.

Section 21: Provides the Sections 24 and 25 are added to the Oregon Vehicle Code.

Section 22. Provides that a person who tampers with a vehicle metering system commits a Class A traffic violation.

Section 23. Requires the department to suspend the driving privileges of a person who fails to pay a vehicle road usage charge or penalty. The suspension will continue until the charges are paid. A person is entitled to an administrative review if the suspension is imposed as a result of an audit or assessment.

Section 24: Provides that owners of plug-in electric hybrids who have paid gas tax may get the gas tax amount paid refunded to them or it may be provided to them as a credit against future VRUC.

Section 25. Exempts a person who uses diesel fuel in a plug-in hybrid electric motor vehicle from obtaining a user's license.

Section 26. Provides that any diesel plug in hybrid could be issued an emblem that would allow the registered owner/driver to purchase diesel fuel without paying the use fuel tax. It would essentially create another class of use fuel user, without the reporting requirements that currently apply.

Section 27. Rules. Allows use fuel sellers to not collect the use fuel tax if the fuel (diesel) is dispensed into the fuel tank of a diesel plug in hybrid.

Section 28. Provides for refunds or credits if the owners of registered diesel plug-in hybrids pay the use fuel tax to a seller, upon proof of the payment of both the use fuel taxes and the vehicle road user charge.

Section 29. Adds facilitation of VRUC collection to the definition of “transportation project” under the Oregon Innovative Partnerships Program. This provision enables ODOT to establish public private partnerships for collection of mileage data and payment of the VRUC.

Section 30. Does not allow a hardship permit to be issued to a person whose driving privilege is suspended for failure to pay the VRUC.

Section 31. Rules. Requires ODOT to adopt rules for implementation, administration and enforcement of the VRUC.

Section 32. The operative date for VRUC is January 1, 2014. Allows ODOT to take necessary action before the operative date to enable ODOT to exercise by the operative date all duties, functions and powers conferred on ODOT by this legislation.

Section 33. The VRUC first applies to 2014 model year vehicles.

Section 34. Requires the department to report to interim legislative committees no later than October 1, 2012 on the likelihood the department could implement the VRUC prior to January 1, 2014.

Section 35. Captions in this legislation are not part of statutory law.