

House Bill 2081

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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**.

Requires Environmental Quality Commission to adopt rules establishing requirements for certain heavy-duty trucks and box-type trailers. Specifies timetable for compliance with rules. Requires commission to adopt rules establishing requirements for fleet compliance plans for certain heavy-duty trucks and box-type trailers.

Requires commission to adopt rules relating to prohibition on idling of commercial motor vehicles. Provides exceptions.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to greenhouse gas emissions from trucking; creating new provisions; amending ORS 468.140;
3 and declaring an emergency.

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

5 **SECTION 1. Sections 2 to 13 of this 2011 Act are added to and made a part of ORS**
6 **chapter 468A.**

7 **SECTION 2. The purpose of sections 2 to 13 of this 2011 Act is to reduce greenhouse gas**
8 **emissions from the use of heavy-duty trucks, box-type trailers and commercial motor vehi-**
9 **cles and to achieve ancillary reductions in emissions of other air contaminants.**

10 **SECTION 3. As used in sections 2 to 13 of this 2011 Act:**

11 (1) "Auxiliary power unit" means a device that is attached to a commercial motor vehicle
12 and that provides electrical, mechanical or thermal energy to the primary engine, a bus
13 passenger compartment or the sleeper berth or any other cab of a commercial motor vehicle.

14 (2) "Box-type trailer" means a dry-van trailer or refrigerated-van trailer that is not a
15 drop-frame trailer.

16 (3) "Broker" means a person that, for compensation, arranges or offers to arrange the
17 transportation of property by a motor carrier.

18 (4) "Chassis trailer" means a trailer composed of a simple chassis for the mounting of a
19 containerized load.

20 (5) "Commercial motor vehicle" means a motor vehicle with a gross vehicle weight rating
21 of more than 10,000 pounds that is used for the transportation of persons or property for
22 compensation or profit.

23 (6) "Curtain-side trailer" means a trailer with tarpaulin sides that can be loaded from the
24 sides, top or rear.

25 (7) "Day-cab truck" means a heavy-duty truck that is not designed to be slept in by the
26 driver.

27 (8) "Drayage truck" means a truck with a gross vehicle weight rating of 33,000 pounds
28 or more operating on or traveling through port or intermodal rail yard property for the

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 purpose of loading, unloading or transporting cargo, such as containerized, bulk or break-
2 bulk goods.

3 (9) "Drop-frame trailer" means an enclosed, rectangular trailer with a deck that is lower
4 to the ground in the area between the trailer hitch and the trailer wheels in order to create
5 more cargo space.

6 (10) "Dry-van trailer" means an enclosed, rectangular trailer that is not climate con-
7 trolled.

8 (11) "Gross vehicle weight rating" means the value specified by the manufacturer as the
9 maximum loaded weight of a motor vehicle.

10 (12) "Heavy-duty truck" means a truck with a gross vehicle weight rating of more than
11 26,000 pounds that is designed to pull a trailer on a highway by means of a fifth wheel
12 mounted over a rear axle.

13 (13) "Idling" means operation of the primary engine of a commercial motor vehicle while
14 the vehicle is stationary.

15 (14) "Local-haul trailer" means a box-type trailer that travels exclusively within a
16 100-mile radius of the location where it is garaged and maintained and from which it is rou-
17 tinely dispatched.

18 (15) "Local-haul truck" means a heavy-duty truck that travels exclusively within a
19 100-mile radius of the location where it is garaged and maintained and from which it is rou-
20 tinely dispatched.

21 (16) "Motor carrier" means a for-hire carrier or private carrier.

22 (17) "Motor vehicle" has the meaning given that term in ORS 468A.350.

23 (18) "Refrigerated-van trailer" means an enclosed, rectangular trailer that has a refrig-
24 eration or heating unit built into the trailer to maintain precise temperatures and that is
25 used to haul frozen food, fresh produce, hot or warm food or other perishable items.

26 (19) "Refuse trailer" means a trailer that is used to haul solid waste such as garbage,
27 construction debris, commercial refuse or other discarded material.

28 (20) "Shipper" means a person that has possession of freight prior to its transportation.

29 (21) "Short-haul truck" means a heavy-duty truck that travels less than 50,000 miles per
30 year.

31 (22) "Trailer" means a vehicle designed for carrying persons or property that is used in
32 conjunction with a truck and is constructed so that some part of its weight and that of its
33 load rests upon, or is carried by, a truck or another trailer.

34 (23) "Truck" means a motor vehicle designed and used primarily for drawing trailers.

35
36 **GREENHOUSE GAS EMISSIONS**
37 **REDUCTION REQUIREMENTS**
38

39 **SECTION 4.** (1) Sections 5 to 9 of this 2011 Act apply to:

- 40 (a) Heavy-duty trucks that pull box-type trailers in this state; and
 - 41 (b) Box-type trailers that are pulled by heavy-duty trucks in this state.
- 42 (2) The following are exempt from sections 5 to 9 of this 2011 Act:
- 43 (a) Chassis trailers;
 - 44 (b) Curtain-side trailers;
 - 45 (c) Drop-frame trailers;

- 1 (d) Emergency vehicles;
- 2 (e) Livestock trailers;
- 3 (f) Military tactical support vehicles;
- 4 (g) Refuse trailers; and
- 5 (h) Other vehicles as specified in rules adopted by the Environmental Quality Commis-
- 6 sion.

7 **SECTION 5. Requirements for model years 2016 and later.** (1) In addition to motor vehicle
8 emission standards that may be established under ORS 468A.360, the Environmental Quality
9 Commission shall establish by rule requirements for heavy-duty trucks that pull box-type
10 trailers and box-type trailers that are pulled by heavy-duty trucks for model year 2016 and
11 subsequent model years to reduce greenhouse gas emissions from the use of those trucks
12 and trailers.

13 (2) Rules adopted by the commission under subsection (1) of this section shall:

14 (a) Establish requirements that are achievable by one or more models of heavy-duty
15 trucks and box-type trailers for each model year;

16 (b) Direct the Department of Environmental Quality to publish a list of models of
17 heavy-duty trucks and box-type trailers that meet the requirements established under para-
18 graph (a) of this subsection; and

19 (c) Establish for local-haul trucks, local-haul trailers and day-cab trucks requirements
20 that are limited to the use of tires with low rolling resistance.

21 (3) Rules adopted by the commission under subsection (1) of this section may exempt
22 drayage trucks, trailers pulled by drayage trucks, short-haul trucks and trailers pulled by
23 short-haul trucks from the requirements of this section.

24 (4) Before adopting rules under this section, the commission shall consider the emissions
25 reduction strategies of the United States Environmental Protection Agency certification
26 program and those of other states.

27 (5) Notwithstanding any other provision of this section, the commission may establish
28 by rule additional requirements for local-haul trucks, local-haul trailers, short-haul trucks
29 and day-cab trucks in order to harmonize Oregon requirements for those vehicles with the
30 emissions reduction strategies of the United States Environmental Protection Agency or of
31 other states.

32 **SECTION 6. Requirements for model years before 2016.** (1) In addition to motor vehicle
33 emission standards that may be established under ORS 468A.360, the Environmental Quality
34 Commission shall establish by rule requirements for retrofitting heavy-duty trucks that pull
35 box-type trailers and box-type trailers that are pulled by heavy-duty trucks for model year
36 2015 and earlier model years to reduce greenhouse gas emissions from the use of those
37 trucks and trailers.

38 (2) Rules adopted by the commission under subsection (1) of this section shall:

39 (a) Establish requirements for box-type trailers, other than local-haul trailers, that are
40 achievable through the use of available retrofit technology, including but not limited to
41 fairings and tires with low rolling resistance; and

42 (b) Establish for heavy-duty trucks and local-haul trailers requirements that are limited
43 to the use of tires with low rolling resistance.

44 (3) In adopting rules under this section, the commission shall consider the emissions re-
45 duction strategies of the United States Environmental Protection Agency certification pro-

1 gram and those of other states.

2 (4) Requirements established by the commission by rule under this section do not apply
3 to drayage trucks, trailers pulled by drayage trucks, short-haul trucks and trailers pulled
4 by short-haul trucks if the owner or operator identifies those drayage trucks, short-haul
5 trucks or trailers in the fleet compliance plan submitted to the Department of Environ-
6 mental Quality under the provisions of section 8 of this 2011 Act.

7 (5) Notwithstanding any other provision of this section, the commission may establish
8 by rule additional requirements for local-haul trucks, local-haul trailers, day-cab trucks,
9 drayage trucks, trailers pulled by drayage trucks, short-haul trucks and trailers pulled by
10 short-haul trucks in order to harmonize Oregon requirements for those vehicles with the
11 emissions reduction strategies of the United States Environmental Protection Agency or of
12 other states.

13 **SECTION 7. Timetable for model years before 2016.** (1) Except as provided in subsections
14 (2) and (3) of this section, owners and operators of heavy-duty trucks that pull box-type
15 trailers and box-type trailers that are pulled by heavy-duty trucks for model year 2015 and
16 earlier model years shall comply with the retrofitting requirements established by the Envi-
17 ronmental Quality Commission by rule under section 6 of this 2011 Act as follows:

18 (a) For heavy-duty trucks, on and after January 1, 2016.

19 (b) For box-type trailers, on and after January 1, 2018.

20 (2)(a) In lieu of meeting the January 1, 2018, compliance date specified in subsection (1)
21 of this section, an owner or operator of box-type trailers may elect to comply with require-
22 ments established by the commission by rule under section 6 of this 2011 Act according to
23 a fleet compliance phase-in schedule described in paragraph (b) or (c) of this subsection.

24 (b) For an owner or operator of 21 or more box-type trailers:

25 (A) By January 1, 2016, or three years after the effective date of rules adopted by the
26 commission under section 6 of this 2011 Act, whichever is later, 5 percent of trailers must
27 meet the requirements.

28 (B) By January 1, 2017, or three years after the effective date of rules adopted by the
29 commission under section 6 of this 2011 Act, whichever is later, 15 percent of trailers must
30 meet the requirements.

31 (C) By January 1, 2018, or three years after the effective date of rules adopted by the
32 commission under section 6 of this 2011 Act, whichever is later, 30 percent of trailers must
33 meet the requirements.

34 (D) By January 1, 2019, or three years after the effective date of rules adopted by the
35 commission under section 6 of this 2011 Act, whichever is later, 50 percent of trailers must
36 meet the requirements.

37 (E) By January 1, 2020, or three years after the effective date of rules adopted by the
38 commission under section 6 of this 2011 Act, whichever is later, 75 percent of trailers must
39 meet the requirements.

40 (F) By January 1, 2021, or three years after the effective date of rules adopted by the
41 commission under section 6 of this 2011 Act, whichever is later, 100 percent of trailers must
42 meet the requirements.

43 (c) For an owner or operator of 20 or fewer box-type trailers:

44 (A) By January 1, 2019, or three years after the effective date of rules adopted by the
45 commission under section 6 of this 2011 Act, whichever is later, 25 percent of trailers must

1 meet the requirements.

2 (B) By January 1, 2020, or three years after the effective date of rules adopted by the
 3 commission under section 6 of this 2011 Act, whichever is later, 50 percent of trailers must
 4 meet the requirements.

5 (C) By January 1, 2021, or three years after the effective date of rules adopted by the
 6 commission under section 6 of this 2011 Act, whichever is later, 75 percent of trailers must
 7 meet the requirements.

8 (D) By January 1, 2022, or three years after the effective date of rules adopted by the
 9 commission under section 6 of this 2011 Act, whichever is later, 100 percent of trailers must
 10 meet the requirements.

11 (d) The commission may establish by rule provisions for early compliance credits of up
 12 to 1.5 trailers for each box-type trailer brought into compliance with the requirements es-
 13 tablished by rule under section 6 of this 2011 Act before the dates specified in this subsection.
 14 The rules adopted under this paragraph may allow use of the credits to defer compliance
 15 until January 1, 2022.

16 (e) The commission may revise by rule the fleet compliance phase-in schedules in para-
 17 graphs (b) and (c) of this subsection in order to allow additional compliance flexibility, in-
 18 cluding but not limited to deferring compliance dates and revising fleet size categories.

19 (3) The commission shall establish by rule provisions that allow for an annual deferral
 20 of, or an adjustment to, the requirements for box-type trailers established by rule by the
 21 commission under section 6 of this 2011 Act for operators and owners unable to obtain fi-
 22 nancing necessary to meet the requirements.

23 **SECTION 8. Fleet compliance plans for model years before 2016.** (1) The Environmental
 24 Quality Commission shall establish by rule requirements for fleet compliance plans for own-
 25 ers and operators of heavy-duty trucks that pull box-type trailers and box-type trailers that
 26 are pulled by heavy-duty trucks for model year 2015 and earlier model years. The rules must
 27 specify the contents of fleet compliance plans and must include requirements for:

28 (a) Designation of the specific box-type trailers scheduled to be retrofitted pursuant to
 29 a fleet compliance phase-in schedule under section 7 of this 2011 Act;

30 (b) Identification of drayage trucks, trailers pulled by drayage trucks, short-haul trucks,
 31 trailers pulled by short-haul trucks, local-haul trucks and local-haul trailers exempt from
 32 retrofitting requirements under section 6 (4) of this 2011 Act;

33 (c) Requests for deferrals, adjustments or early compliance credits, if applicable, in ac-
 34 cordance with section 7 of this 2011 Act;

35 (d) Submission of the fleet compliance plans to the Department of Environmental Qual-
 36 ity; and

37 (e) Submission of other information necessary for demonstrating compliance, as deter-
 38 mined by the commission.

39 (2) An owner or operator shall annually update the fleet compliance plan submitted to
 40 the department under this section, including identification of any box-type trailers that were
 41 not retrofitted in accordance with the submitted fleet compliance phase-in schedule.

42 (3) For fleets subject to comparable requirements in another state, the commission may
 43 allow submission of information submitted to that other state, or notice that information
 44 was submitted to that other state, in lieu of information otherwise required pursuant to this
 45 section.

1 (4) To the extent feasible, the commission may minimize the burden of submitting fleet
 2 compliance plans required under this section by allowing electronic submissions.

3 **SECTION 9. Additional requirements for all model years.** (1) The Environmental Quality
 4 Commission may require by rule persons in this state that sell heavy-duty trucks and box-
 5 type trailers that are subject to sections 5 to 9 of this 2011 Act to provide a written disclo-
 6 sure to buyers concerning the greenhouse gas emissions reduction measures required under
 7 sections 5 to 9 of this 2011 Act.

8 (2) The commission may prohibit by rule motor carriers and brokers from dispatching for
 9 operation in this state heavy-duty trucks and box-type trailers subject to sections 5 to 9 of
 10 this 2011 Act unless those heavy-duty trucks and box-type trailers comply with requirements
 11 established pursuant to sections 5 to 9 of this 2011 Act.

12 (3) The commission may prohibit by rule shippers from shipping freight from their facil-
 13 ities located in this state in heavy-duty trucks and box-type trailers subject to sections 5 to
 14 9 of this 2011 Act, unless those heavy-duty trucks and box-type trailers comply with re-
 15 quirements established pursuant to sections 5 to 9 of this 2011 Act.

16
 17 **IDLING**
 18

19 **SECTION 10.** (1) The Environmental Quality Commission shall adopt rules that prohibit
 20 owners and operators of commercial motor vehicles from idling the vehicles for more than
 21 five minutes in any continuous 60-minute period.

22 (2) Rules adopted by the commission under this section shall establish exceptions for:

23 (a) Engine use necessary to power the vehicle's mechanical or electrical operations if
 24 alternatives are not reasonably available;

25 (b) Engine use necessary for reasonable periods due to traffic delays, frequent delivery
 26 stops, loading and unloading, inspections, safety procedures and emergencies; and

27 (c) Engine use necessary for other reasons as determined by the commission.

28 (3) Rules adopted by the commission under this section may establish:

29 (a) Temporary exceptions as part of a phase-in period for idling limitations, including but
 30 not limited to passenger or driver comfort, provided that such exceptions expire not later
 31 than three years after the commission first adopts rules under this section.

32 (b) Emission standards for auxiliary power units used to power commercial motor vehi-
 33 cles for purposes other than propulsion.

34 **SECTION 11.** (1) The Environmental Quality Commission may require by rule the owner
 35 or operator of a truck stop or truck parking area, or a truck loading or unloading facility,
 36 to post notice of the idling restrictions adopted by the commission by rule under section 10
 37 of this 2011 Act.

38 (2) A political subdivision of this state may not adopt or enforce any restrictions on idling
 39 by commercial motor vehicles unless that subdivision's idling restrictions are identical to
 40 those adopted by the commission under section 10 of this 2011 Act.

41 **SECTION 12.** (1) The Environmental Quality Commission may require by rule the owner
 42 or operator of a truck stop or truck parking area to provide substitute power or the use of
 43 an auxiliary power unit to commercial motor vehicles as an alternative to idling.

44 (2) Before adopting rules under subsection (1) of this section, the commission shall con-
 45 sider the feasibility of providing substitute power to commercial motor vehicles in truck

1 stops and truck parking areas, including but not limited to consideration of:

2 (a) Ease and cost of connecting substitute power to the vehicles;

3 (b) Whether providing substitute power requires retrofitting of the vehicles;

4 (c) Whether systems providing substitute power are commercially available in other lo-
5 cations on interstate highways that serve this state;

6 (d) Whether substitute power can be provided at a reasonable cost to the owner or op-
7 erator of the truck stop or truck parking area; and

8 (e) Whether financial assistance in the form of loans, grants or tax credits is available
9 to owners or operators of truck stops or truck parking areas in order to provide substitute
10 power.

11 **SECTION 13.** (1) The Environmental Quality Commission may require by rule the owner
12 or operator of a truck stop or truck parking area, or a truck loading or unloading facility,
13 to post notice of the restrictions relating to substitute power or the use of an auxiliary
14 power unit for commercial motor vehicles adopted by the commission by rule under section
15 12 of this 2011 Act.

16 (2) A political subdivision of this state may not adopt or enforce any restrictions relating
17 to substitute power or the use of an auxiliary power unit for commercial motor vehicles
18 unless that subdivision's restrictions are identical to those adopted by the commission under
19 section 12 of this 2011 Act.

20 **SECTION 14.** Except as provided in section 15 of this 2011 Act, sections 10 and 11 of this
21 2011 Act become operative on January 1, 2012.

22 **SECTION 15.** (1) The Environmental Quality Commission may take any action before the
23 operative date specified in section 14 of this 2011 Act that is necessary for the commission
24 to exercise, on and after the operative date specified in section 14 of this 2011 Act, all of the
25 duties, functions and powers conferred on the commission by sections 10 and 11 of this 2011
26 Act.

27 (2) Any rules adopted by the commission pursuant to this section do not become opera-
28 tive before January 1, 2012.

29 **SECTION 16.** Except as provided in section 17 of this 2011 Act, sections 12 and 13 of this
30 2011 Act become operative on January 1, 2016.

31 **SECTION 17.** (1) The Environmental Quality Commission may take any action before the
32 operative date specified in section 16 of this 2011 Act that is necessary for the commission
33 to exercise, on and after the operative date specified in section 16 of this 2011 Act, all of the
34 duties, functions and powers conferred on the commission by sections 12 and 13 of this 2011
35 Act.

36 (2) Any rules adopted by the commission pursuant to this section do not become opera-
37 tive before January 1, 2016.

38
39 **MISCELLANEOUS**

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41 **SECTION 18.** ORS 468.140, as amended by section 9, chapter 267, Oregon Laws 2009, is
42 amended to read:

43 468.140. (1) In addition to any other penalty provided by law, any person who violates any of the
44 following shall incur a civil penalty for each day of violation in the amount prescribed by the
45 schedule adopted under ORS 468.130:

1 (a) The terms or conditions of any permit required or authorized by law and issued by the De-
 2 partment of Environmental Quality or a regional air quality control authority.

3 (b) Any provision of ORS 164.785, 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.505 to
 4 454.535, 454.605 to 454.755 and 783.625 to 783.640 and ORS chapter 467 and ORS chapters 468, 468A
 5 and 468B.

6 (c) Any rule or standard or order of the Environmental Quality Commission adopted or issued
 7 pursuant to ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755
 8 and 783.625 to 783.640 and ORS chapter 467 and ORS chapters 468, 468A and 468B.

9 (d) Any term or condition of a variance granted by the commission or department pursuant to
 10 ORS 467.060.

11 (e) Any rule or standard or order of a regional authority adopted or issued under authority of
 12 ORS 468A.135.

13 (f) The financial assurance requirement under ORS 468B.390 and 468B.485 or any rule related
 14 to the financial assurance requirement under ORS 468B.390.

15 (2) Each day of violation under subsection (1) of this section constitutes a separate offense.

16 (3)(a) In addition to any other penalty provided by law, any person who intentionally or
 17 negligently causes or permits the discharge of oil or hazardous material into the waters of the state
 18 or intentionally or negligently fails to clean up a spill or release of oil or hazardous material into
 19 the waters of the state as required by ORS 466.645 shall incur a civil penalty not to exceed the
 20 amount of \$100,000 for each violation.

21 (b) In addition to any other penalty provided by law, the following persons shall incur a civil
 22 penalty not to exceed the amount of \$25,000 for each day of violation:

23 (A) Any person who violates the terms or conditions of a permit authorizing waste discharge
 24 into the air or waters of the state.

25 (B) Any person who violates any law, rule, order or standard in ORS 448.305, 454.010 to 454.040,
 26 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755 and 783.625 to 783.640 and ORS chapters
 27 468, 468A and 468B relating to air or water pollution.

28 (C) Any person who violates the provisions of a rule adopted or an order issued under ORS
 29 459A.590.

30 (4) In addition to any other penalty provided by law, any person who violates the provisions of
 31 ORS 468B.130 shall incur a civil penalty not to exceed the amount of \$1,000 for each day of vio-
 32 lation.

33 (5) Subsection (1)(c) and (e) of this section does not apply to violations of motor vehicle emission
 34 standards [which] **adopted under ORS 468A.360 that** are not violations of standards for control of
 35 noise emissions.

36 (6) Notwithstanding the limits of ORS 468.130 (1) and in addition to any other penalty provided
 37 by law, any person who intentionally or negligently causes or permits open field burning contrary
 38 to the provisions of ORS 468A.555 to 468A.620 and 468A.992, 476.380 and 478.960 shall be assessed
 39 by the department a civil penalty of at least \$20 but not more than \$40 for each acre so burned.
 40 Any fines collected by the department pursuant to this subsection shall be deposited with the State
 41 Treasurer to the credit of the General Fund and shall be available for general governmental ex-
 42 pense. As used in this subsection, "open field burning" does not include propane flaming of mint
 43 stubble.

44 **SECTION 19. (1) Section 11 (2) of this 2011 Act applies to any restriction on idling by**
 45 **commercial motor vehicles adopted by a political subdivision of this state before, on or after**

1 the operative date specified in section 14 of this 2011 Act.

2 (2) Section 13 (2) of this 2011 Act applies to any restriction relating to substitute power
3 or the use of an auxiliary power unit for commercial motor vehicles adopted by a political
4 subdivision of this state before, on or after the operative date specified in section 16 of this
5 2011 Act.

6 SECTION 20. The unit and section captions used in this 2011 Act are provided only for
7 the convenience of the reader and do not become part of the statutory law of this state or
8 express any legislative intent in the enactment of this 2011 Act.

9 SECTION 21. This 2011 Act being necessary for the immediate preservation of the public
10 peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect
11 on its passage.

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