

# House Bill 2136

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor John A. Kitzhaber for Department of Transportation)

## 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**.

Permits Department of Transportation to prescribe by rule manner in which dealers, sellers and certain users of fuel submit reports to department.

## A BILL FOR AN ACT

1  
2 Relating to reports made to the Department of Transportation; creating new provisions; and  
3 amending ORS 319.020, 319.190, 319.675 and 319.690.

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

5 **SECTION 1.** ORS 319.020, as amended by section 48, chapter 865, Oregon Laws 2009, is  
6 amended to read:

7 319.020. (1) Subject to subsections (2) to (4) of this section, in addition to the taxes otherwise  
8 provided for by law, every dealer engaging in the dealer's own name, or in the name of others, in  
9 the first sale, use or distribution of motor vehicle fuel or aircraft fuel or withdrawal of motor vehicle  
10 fuel or aircraft fuel for sale, use or distribution within areas in this state within which the state  
11 lacks the power to tax the sale, use or distribution of motor vehicle fuel or aircraft fuel, shall:

12 (a) Not later than the 25th day of each calendar month, render a statement to the Department  
13 of Transportation of all motor vehicle fuel or aircraft fuel sold, used, distributed or so withdrawn  
14 by the dealer in the State of Oregon as well as all such fuel sold, used or distributed in this state  
15 by a purchaser thereof upon which sale, use or distribution the dealer has assumed liability for the  
16 applicable license tax during the preceding calendar month. **The dealer shall render the state-**  
17 **ment to department in the manner provided by the department by rule.**

18 (b) Except as provided in ORS 319.270, pay a license tax computed on the basis of 30 cents per  
19 gallon on the first sale, use or distribution of such motor vehicle fuel or aircraft fuel so sold, used,  
20 distributed or withdrawn as shown by such statement in the manner and within the time provided  
21 in ORS 319.010 to 319.430.

22 (2) When aircraft fuel is sold, used or distributed by a dealer, the license tax shall be computed  
23 on the basis of nine cents per gallon of fuel so sold, used or distributed, except that when aircraft  
24 fuel usable in aircraft operated by turbine engines (turbo-prop or jet) is sold, used or distributed, the  
25 tax rate shall be one cent per gallon.

26 (3) In lieu of claiming refund of the tax paid on motor vehicle fuel consumed by such dealer in  
27 nonhighway use as provided in ORS 319.280, 319.290 and 319.320, or of any prior erroneous payment  
28 of license tax made to the state by such dealer, the dealer may show such motor vehicle fuel as a  
29 credit or deduction on the monthly statement and payment of tax.

30 (4) The license tax computed on the basis of the sale, use, distribution or withdrawal of motor  
31 vehicle or aircraft fuel [*shall*] **may** not be imposed wherever such tax is prohibited by the Consti-

**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 tution or laws of the United States with respect to such tax.

2 **SECTION 2.** ORS 319.190 is amended to read:

3 319.190. (1) Every dealer in motor vehicle fuel shall render to the Department of Transportation,  
 4 on or before the 25th day of each month, on forms prescribed, prepared and furnished by the de-  
 5 partment, **and in the manner provided by the department by rule**, a signed statement of the  
 6 number of gallons of motor vehicle fuel sold, distributed or used by the dealer during the preceding  
 7 calendar month. The statement shall be signed by one of the principal officers, or by an authorized  
 8 agent in case of a corporation; or by the managing agent or owner in case of a firm or association.

9 (2) The signed statement filed with the department as required by this section is a public record.  
 10 All other documents, including supporting schedules and information received from other taxing ju-  
 11 risdictions and entities, shall be kept confidential and exempt from public inspection except that  
 12 such information may be shared with tax collecting entities in other jurisdictions on the condition  
 13 that the receiving jurisdiction agrees to keep such information confidential. If a statement is not  
 14 received on or before the 25th day of each month, a penalty shall be assessed pursuant to ORS  
 15 319.180 or, if the department determines that no tax is due, a penalty of \$25 shall be assessed.

16 **SECTION 3.** ORS 319.675 is amended to read:

17 319.675. Except as provided in ORS 319.692, the seller of fuel for use in a motor vehicle shall  
 18 report to the Department of Transportation on or before the 20th day of each month, the amount  
 19 of fuel sold, during the preceding calendar month, subject to the tax provided by ORS 319.530 and  
 20 such other information pertaining to fuel handled as the department may require. The department  
 21 may prescribe the form of the report. **The seller shall deliver the report to the department in**  
 22 **the manner provided by the department by rule.**

23 **SECTION 4.** ORS 319.690 is amended to read:

24 319.690. (1) Except as provided in subsection (2) of this section and ORS 319.692, each user of  
 25 fuel in a motor vehicle required to be licensed under ORS 319.550 shall, on or before the 20th day  
 26 of each month, file with the Department of Transportation a report showing the amount of fuel used  
 27 during the immediately preceding calendar month by the user and such other information as the  
 28 department may require for the purposes of ORS 319.510 to 319.880. *[The reports shall be in the form*  
 29 *prescribed by the department.]* **The department shall prescribe the form of the report. The user**  
 30 **shall file the report with the department in the manner provided by the department by rule.**  
 31 Each report shall be accompanied by a remittance payable to the department for the amount of all  
 32 the tax shown by the report to be due and payable. Any tax paid to a seller is a credit against the  
 33 amount of tax otherwise due and payable to the state under ORS 319.510 to 319.880 or 825.474,  
 34 825.476 and 825.480. Also, when filing a monthly tax report, a user may, in lieu of claiming a refund,  
 35 take a deduction or credit for the tax on any fuel which would otherwise be subject to refund under  
 36 ORS 319.831 (1).

37 (2) Each user of fuel in a motor vehicle with a light weight of less than 8,000 pounds required  
 38 to be licensed under ORS 319.550 may file an annual report of all fuel used upon Oregon highways.  
 39 The report for each calendar year shall be filed on or before March 1 of the year following and shall  
 40 be accompanied by a remittance payable to the department of all the tax shown to be due and  
 41 payable on the amount of fuel used.

42 **SECTION 5.** **The amendments to ORS 319.020, 319.190, 319.675 and 319.690 by sections 1**  
 43 **to 4 of this 2011 Act apply to statements and reports submitted on or after the effective date**  
 44 **of this 2011 Act.**