

A-Engrossed
House Bill 2328

Ordered by the House April 8
Including House Amendments dated April 8

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Transportation for Road User Fee Task Force)

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.

Requires persons operating electric motor vehicles and plug-in hybrid electric motor vehicles to pay vehicle road usage charge. Becomes operative January 1, 2014.

Permits person paying vehicle road usage charge to apply for refund of motor vehicle fuel tax.

Directs Department of Transportation to [*develop technology*] **establish methods** for reporting vehicle miles traveled.

Provides penalty for violation of laws related to payment and reporting of vehicle road usage charge. Punishes by maximum fine of \$720. **Directs department to suspend driving privileges of person who fails to pay vehicle road usage charge or related penalties.**

Creates offense of tampering with vehicle metering system. Punishes by maximum fine of \$720.

Permits person to seek refund for miles driven on private property.

Modifies definition of "transportation project" to allow department to enter into agreements under Oregon Innovative Partnerships Program for collection of vehicle road usage charge.

A BILL FOR AN ACT

1
2 Relating to motor vehicles; creating new provisions; amending ORS 319.280, 319.550, 319.665, 319.831,
3 367.802 and 807.250; and providing for revenue raising that requires approval by a three-fifths
4 majority.

5 Whereas a significant number of highly fuel-efficient vehicles are entering the marketplace; and

6 Whereas the fuel tax has become a less viable revenue source for funding Oregon's road system
7 over the long-term; and

8 Whereas it is vital that we transition to an alternative revenue source, augmenting the fuel tax
9 to provide the means to support the state's system of roads and highways; and

10 Whereas the solution is to charge users of certain fuel-efficient vehicles based on measured road
11 use to augment the fuels tax as a revenue source for funding the road system; now, therefore,

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

13 **SECTION 1. Definitions. As used in sections 1 to 19 of this 2011 Act:**

14 (1) "Electric motor vehicle" means a motor vehicle that uses electricity as its only
15 source of motive power.

16 (2) "Highway" means every public way, road, street, thoroughfare and place, including
17 bridges, viaducts and other structures within the boundaries of this state, open, used or in-
18 tended for use of the general public for vehicles or vehicular traffic as a matter of right.

19 (3) "Lessee" means a person who leases a motor vehicle that is registered in Oregon and
20 who is subject to the vehicle road usage charge under section 2 of this 2011 Act.

21 (4) "Plug-in hybrid electric motor vehicle" means a motor vehicle that uses electricity
22 and another source of motive power and is designed for electric plug-in charging.

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 (5) "Registered owner" means a person who is the registered owner of a motor vehicle
2 that is registered in Oregon and who is subject to the vehicle road usage charge under sec-
3 tion 2 of this 2011 Act.

4 **SECTION 2. Vehicle road usage charge.** (1) Except as provided in subsection (2) of this
5 section, the registered owner of an electric motor vehicle or plug-in hybrid electric motor
6 vehicle shall pay a vehicle road usage charge.

7 (2) A lessee of an electric motor vehicle or plug-in hybrid electric motor vehicle shall pay
8 a vehicle road usage charge.

9 (3)(a) Upon approval of the Department of Transportation, notwithstanding ORS 319.020
10 and 319.530, a person who operates a motor vehicle other than an electric motor vehicle or
11 plug-in hybrid electric motor vehicle may pay the vehicle road usage charge in lieu of any
12 tax on motor vehicle fuel imposed under ORS 319.020 or any tax on the use of fuel in a motor
13 vehicle under ORS 319.530.

14 (b) To be eligible under this subsection:

15 (A) The person described in paragraph (a) of this subsection shall submit an application
16 to the department;

17 (B) The motor vehicle must be capable of electronically reporting the motor vehicle's
18 mileage from the motor vehicle's odometer; and

19 (C) The motor vehicle must have a gross vehicle weight rating of 10,000 pounds or less.

20 (c) The maximum number of motor vehicles that may qualify under this subsection at
21 any given time is 5,000.

22 (d) If a person decides to no longer pay the vehicle road usage charge and return to
23 paying the tax on motor vehicle fuel imposed under ORS 319.020 or any tax on the use of fuel
24 in a motor vehicle under ORS 319.530, the person shall notify the department and pay to the
25 department any amount of the vehicle road usage charge that the person has not yet paid.
26 The person shall return to the department any emblem issued pursuant to section 26 of this
27 2011 Act.

28 (4) A person subject to the vehicle road usage charge shall pay 1.43 cents per mile for
29 metered use of the highways in Oregon.

30 (5) This section does not apply to a vehicle dealer that holds a certificate issued under
31 ORS 822.020.

32 **SECTION 3. Methods of reporting vehicle miles traveled.** (1) As used in this section,
33 "open system" means an integrated system based on common standards and an operating
34 system accessible to the marketplace whereby components performing the same function can
35 be readily substituted or provided by multiple providers.

36 (2) The Department of Transportation shall establish the methods for identifying the
37 motor vehicles that are subject to the vehicle road usage charge imposed under section 2 of
38 this 2011 Act and establish the methods for reporting the number of miles the motor vehicles
39 traveled on the highway system.

40 (3) The department shall take into account at least the following when taking action
41 under subsection (2) of this section:

42 (a) The accuracy of the data collected;

43 (b) Privacy options for persons paying the vehicle road usage charge;

44 (c) The adaptability of the technology used;

45 (d) The installation of the technology;

1 (e) The safety of the installation; and

2 (f) Tamper-resistant technology.

3 (4) The department shall establish at least one method of collecting and reporting the
4 number of miles traveled by the motor vehicle that does not use vehicle location technology.

5 (5) The department may require that a vehicle subject to the vehicle road usage charge
6 be capable of electronically reporting the odometer reading or be equipped with technology
7 approved by the department that is capable of electronically reporting the odometer reading.

8 (6) The department shall establish standards under an open system for technology used
9 in methods for identifying motor vehicles that are subject to the vehicle road usage charge
10 imposed under section 2 of this 2011 Act and methods for reporting the number of miles the
11 motor vehicles traveled on the highway system. In developing the standards and systems,
12 the department shall collaborate with state agencies to integrate information systems cur-
13 rently in use or planned for future use.

14 **SECTION 4. Collection by Department of Transportation.** The Department of Transpor-
15 tation shall provide by rule for the collection of the vehicle road usage charge imposed under
16 section 2 of this 2011 Act.

17 **SECTION 5. Refund of vehicle road usage charge in operation of vehicle on certain roads**
18 **or property.** (1) A registered owner or lessee who pays the vehicle road usage charge imposed
19 under section 2 of this 2011 Act may apply to the Department of Transportation for a refund
20 of those miles traveled upon any road, thoroughfare or property in private ownership.

21 (2) A person shall submit an application for a refund under subsection (1) of this section
22 to the department within 15 months after the date the vehicle road usage charge, for which
23 a refund is claimed, is paid.

24 (3) The application for a refund provided by subsection (1) of this section shall include a
25 signed statement by the applicant indicating the amount of miles for which a refund is
26 claimed.

27 (4) The department may require any person who applies for a refund under subsection
28 (1) of this section to furnish any other information the department considers necessary.

29 **SECTION 6. Investigation of refund applications.** The Department of Transportation may
30 investigate refund applications submitted under section 5 of this 2011 Act and gather and
31 compile information in regard to the applications as the department considers necessary to
32 safeguard the state and prevent fraudulent practices in connection with tax refunds and tax
33 evasion. The department may, in order to establish the validity of any application, examine
34 the books and records of the applicant for such purposes. If an applicant does not permit the
35 department to examine the applicant's books and records, the applicant waives all rights to
36 a refund of the transaction questioned.

37 **SECTION 7. Allocation of moneys.** The moneys that the Department of Transportation
38 collects from the vehicle road usage charge imposed under section 2 of this 2011 Act shall
39 be allocated as follows:

40 (1) 50 percent to the Department of Transportation.

41 (2) 30 percent to counties for distribution as provided in ORS 366.762.

42 (3) 20 percent to cities for distribution as provided in ORS 366.800.

43 **SECTION 8. Reporting vehicle miles traveled.** (1) A registered owner or lessee subject to
44 the vehicle road usage charge imposed under section 2 of this 2011 Act shall equip the elec-
45 tric motor vehicle or plug-in hybrid electric motor vehicle with technology, approved by the

1 Department of Transportation, that provides for electronic reporting of miles traveled.

2 (2) On or before the fifth business day of each month, the registered owner or lessee shall
3 report the number of miles the vehicle has traveled and pay to the department the amount
4 due under section 2 of this 2011 Act for the preceding calendar month. The number of miles
5 reported shall be rounded up to the next whole mile.

6 (3) The department may, by rule, permit registered owners and lessees to report and pay
7 the vehicle road usage charge on a periodic basis other than the monthly basis prescribed in
8 subsection (2) of this section. The department shall describe the process by which a regis-
9 tered owner or lessee may request and receive an alternative reporting and payment sched-
10 ule.

11 (4) Unless a registered owner or lessee presents evidence, in a manner approved by the
12 department by rule, that the vehicle has been driven outside of Oregon, the department may
13 assume that all miles reported are miles driven within Oregon.

14 (5) The department shall provide a refund to a registered owner or lessee who has over-
15 paid the vehicle road usage charge. The department may provide the refund, by rule, by a
16 credit against future vehicle road usage charges imposed under section 2 of this 2011 Act.

17 SECTION 9. Penalty for delinquency in paying vehicle road usage charge. (1) Except as
18 provided in subsection (2) of this section, if a registered owner or lessee is delinquent in
19 paying the vehicle road usage charge imposed under section 2 of this 2011 Act on the date
20 specified in section 8 of this 2011 Act, a penalty of \$25 for the first delinquent payment, and
21 a penalty of \$50 for the second delinquent payment and for each subsequent delinquent pay-
22 ment, shall be added to the amount due and the total shall immediately be due and payable.

23 (2) If the Department of Transportation determines that the delinquency was due to
24 reasonable cause and without any intent to avoid payment, the penalty provided by sub-
25 section (1) of this section may be waived.

26 (3)(a) If the vehicle road usage charge imposed under section 2 of this 2011 Act is not paid
27 as required by section 8 of this 2011 Act, interest shall be charged at the rate of 0.0329 per-
28 cent per day until the charge and interest have been paid in full.

29 (b) If the vehicle road usage charge imposed under section 2 of this 2011 Act is overpaid,
30 the department may credit interest to the account of the registered owner or lessee in the
31 amount of 0.0329 percent per day, up to a maximum amount that equals any interest as-
32 sessed against the registered owner or lessee under paragraph (a) of this subsection in any
33 given audit period.

34 (4) The department shall give to the person charged with a penalty under this section
35 notice by electronic mail or other written means.

36 SECTION 10. Collection of delinquent obligation generally; warrant; judgment lien. (1) If
37 a registered owner or lessee fails to pay in full any obligation due under sections 1 to 19 of
38 this 2011 Act, the Department of Transportation may issue a warrant under the
39 department's official seal directed to the sheriff of any county of this state commanding the
40 sheriff to levy upon and sell the real and personal property of the person found within that
41 county, for payment of the amount of the obligation and the cost of executing the warrant,
42 and to return the warrant to the department and pay to the department the money collected
43 from the sale by the time specified in the warrant, not less than 60 days from the date of
44 the warrant.

45 (2) The sheriff shall, within five days after the receipt of the warrant, record with the

1 clerk of the county a copy of the warrant. The clerk shall enter in the County Clerk Lien
2 Record the name of the person mentioned in the warrant, the amount of the obligation for
3 which the warrant is issued and the date when the copy is recorded. The amount of the
4 warrant shall become a lien upon the title to and interest in property of the person against
5 whom it is issued in the same manner as a judgment that creates a judgment lien under ORS
6 chapter 18.

7 (3) The sheriff shall proceed upon the warrant in all respects, with like effect and in the
8 same manner prescribed by law in respect to executions issued against property upon judg-
9 ment of a court of record, and shall be entitled to the same fees for services in executing
10 the warrant, to be added to and collected as a part of the warrant liability.

11 (4) In the discretion of the Department of Transportation, a warrant of like terms, force
12 and effect to levy upon funds of the person in possession of the Department of Revenue may
13 be issued and directed to any agent authorized by the Department of Transportation to col-
14 lect charges and penalties payable under sections 1 to 19 of this 2011 Act, and in the exe-
15 cution thereof the agent shall have all of the powers conferred by law upon sheriffs but is
16 entitled to no fee or compensation in excess of actual expenses paid in the performance of
17 such duty.

18 SECTION 11. Use of collection agency. (1) The Department of Transportation may engage
19 the services of a collection agency to collect any obligation due to the state under sections
20 1 to 19 of this 2011 Act. The department may engage the services by entering into agree-
21 ments to pay reasonable charges on a contingent fee or other basis.

22 (2) The department may assign to the collection agency, for collection purposes only, any
23 of the obligations due to the state under sections 1 to 19 of this 2011 Act.

24 (3) The collection agency may bring such actions or take such proceedings, including at-
25 tachment and garnishment proceedings, as may be necessary.

26 SECTION 12. Uncollectible obligation. (1) Any obligation due to the state assigned to a
27 collection agency pursuant to section 11 of this 2011 Act that remains uncollected for two
28 years after the date of such assignment meets the criteria for uncollectibility formulated
29 pursuant to ORS 293.240, and may be assigned to the Secretary of State.

30 (2) ORS 293.245 applies to any obligation due to the state assigned to the Secretary of
31 State pursuant to subsection (1) of this section.

32 SECTION 13. Audit; assessment of deficiency. (1) The Department of Transportation may
33 audit a report submitted under section 8 of this 2011 Act at any time.

34 (2) If the department is not satisfied that a report filed or the amount of the vehicle road
35 usage charge or penalty paid to the state by any registered owner or lessee is correct, the
36 department may assess the charge and penalty due based upon any information available to
37 the department.

38 (3) The department shall give to the registered owner or lessee written notice of the as-
39 sessment. The notice may be served personally or by electronic mail or other written means.
40 If given by mail, service shall be made by depositing the notice in the United States mail,
41 postage prepaid, addressed to the registered owner or lessee at the address as it appears in
42 the records of the department.

43 SECTION 14. Assessing charge and penalty upon failure to make report. (1) If a regis-
44 tered owner or lessee fails to make a report required under section 8 of this 2011 Act, the
45 Department of Transportation shall make an estimate of the amount due, based upon any

1 information available to the department, for the month or months with respect to which the
2 registered owner or lessee failed to make a report, and assess the charges and penalties due
3 from the registered owner or lessee under sections 1 to 19 of this 2011 Act.

4 (2) The department shall give to the registered owner or lessee written notice of the as-
5 sessment in the manner prescribed by section 15 of this 2011 Act.

6 **SECTION 15. Petition for reassessment.** (1) Any registered owner or lessee against whom
7 an assessment is made under sections 13 and 14 of this 2011 Act may petition for a reas-
8 sessment within 30 days after service of notice of the assessment. If a petition is not filed
9 within the 30-day period, the amount of the assessment becomes conclusive.

10 (2) If a petition for reassessment is filed within the 30-day period, the Department of
11 Transportation shall reconsider the assessment and, if requested in the petition, shall grant
12 the registered owner or lessee an oral hearing and give the registered owner or lessee 10
13 days' notice of the time and place of the hearing. The department may continue the hearing
14 from time to time. The department shall serve on the petitioner notice of the department's
15 finding upon reassessment. If the finding is that a charge or penalty is delinquent, the
16 petitioner shall pay to the department, within 30 days after notice is served, all the charges
17 or penalties found to be delinquent.

18 (3) Notice required by this section shall be served in the manner prescribed by section
19 13 of this 2011 Act.

20 **SECTION 16. Appeal to circuit court.** A person aggrieved by a finding by the Department
21 of Transportation under section 15 of this 2011 Act may appeal to the circuit court of the
22 county in which the person resides. The appeal shall be taken within 60 days from the date
23 of the entry or making of such finding and in the manner provided by law for appeals in
24 actions at law.

25 **SECTION 17. Time limitation on service of notice of additional assessment.** Except in the
26 case of an alleged fraudulent report, or neglect or refusal to make a report, the Department
27 of Transportation may not serve a notice of assessment on the registered owner or lessee
28 after three years have expired since the alleged erroneous report was filed or a report should
29 have been filed.

30 **SECTION 18. Results of investigations to be private.** The Department of Transportation,
31 or any person having an administrative duty under sections 1 to 19 of this 2011 Act, may not
32 divulge information obtained by an investigation of a registered owner, lessee or other person
33 visited or examined in the discharge of official duty, or the amounts set forth or disclosed
34 in any report, and may not permit any report or copy thereof or any book containing any
35 abstract or particulars thereof to be seen or examined by any person except as provided by
36 law. However, the department may authorize examination of such reports by, and the giving
37 of information in the reports to, other state officers.

38 **SECTION 19. Prohibitions.** (1) A person may not intentionally make a false statement in
39 a report, petition or application required or permitted by sections 1 to 19 of this 2011 Act.

40 (2) A person may not intentionally collect, or attempt to collect or receive, a refund of
41 a charge or penalty paid to the Department of Transportation under sections 1 to 19 of this
42 2011 Act to which the person is not entitled.

43 (3) A person may not intentionally aid or assist another person to violate any provision
44 of sections 1 to 19 of this 2011 Act.

45 **SECTION 20. Penalties.** A person who violates any provision of sections 1 to 19 of this

1 2011 Act commits a Class A violation.

2 **SECTION 21.** Sections 22 and 23 of this 2011 Act are added to and made a part of the
3 Oregon Vehicle Code.

4 **SECTION 22. Tampering with vehicle metering system; penalty.** (1) A person commits
5 the offense of tampering with a vehicle metering system if the person does any of the fol-
6 lowing:

7 (a) With the intent to defraud, operates a motor vehicle that is subject to a vehicle road
8 usage charge under section 2 of this 2011 Act on a highway knowing that the vehicle meter-
9 ing system is disconnected or nonfunctional.

10 (b) Replaces, disconnects or resets the vehicle metering system of a motor vehicle that
11 is subject to a vehicle road usage charge under section 2 of this 2011 Act with the intent to
12 reduce the number of miles the vehicle metering system records.

13 (2) This section does not apply to a person who is servicing, repairing or replacing a ve-
14 hicle metering system.

15 (3) As used in this section, “vehicle metering system” means a system used to record the
16 number of miles traveled for the purpose of complying with the reporting requirements es-
17 tablished under section 8 of this 2011 Act.

18 (4) The offense described in this section, tampering with a vehicle metering system, is a
19 Class A traffic violation.

20 **SECTION 23. Suspension of driving privileges for failure to pay charge.** (1) The Depart-
21 ment of Transportation shall suspend the driving privileges of any person who accrues the
22 vehicle road usage charge imposed under section 2 of this 2011 Act, or a penalty imposed
23 under section 9 of this 2011 Act, and who fails to pay the charge or penalty when required
24 by section 8 or 9 of this 2011 Act.

25 (2) The suspension shall continue until the person’s accrued vehicle road usage charges
26 imposed under section 2 of this 2011 Act, or accrued penalties imposed under section 9 of this
27 2011 Act, are paid in full to the department.

28 (3) If the suspension is imposed following an audit or assessment as described in sections
29 13 and 14 of this 2011 Act, a person is entitled to administrative review under ORS 809.440
30 of a suspension under this section.

31 **SECTION 24.** ORS 319.280 is amended to read:

32 319.280. (1) Any person who has paid any tax on motor vehicle fuel levied or directed to be paid
33 by ORS 319.010 to 319.430 either directly by the collection of the tax by the vendor from the con-
34 sumer, or indirectly by adding the amount of the tax to the price of the fuel and paid by the con-
35 sumer, shall be reimbursed and repaid the amount of such tax paid, except as provided in ORS
36 319.290 to 319.330, if such person has:

37 (a) Purchased and used such fuel for the purpose of operating or propelling a stationary gas
38 engine, a tractor or a motor boat, if the motor boat is used for commercial purposes at any time
39 during the period for which the refund is claimed;

40 (b) Purchased and used such fuel for cleaning or dyeing or other commercial use, except when
41 used in motor vehicles operated upon any highway;

42 (c) Purchased and exported such fuel from this state, in containers other than fuel supply tanks
43 of motor vehicles, provided that the person:

44 (A) Exports the motor vehicle fuel from this state to another state, territory or country, not
45 including a federally recognized Indian reservation located wholly or partially within the borders

1 of this state, where the motor vehicle fuel is unloaded; and

2 (B) Has a valid motor vehicle fuel dealer's license or its equivalent issued by the state, territory
3 or country to which the fuel is exported and where it is unloaded;

4 (d) Purchased and exported such fuel in the fuel supply tank of a motor vehicle and has used
5 such fuel to operate the vehicle upon the highways of another state, if the user has paid to the other
6 state a similar motor vehicle fuel tax on the same fuel, or has paid any other highway use tax the
7 rate for which is increased because such fuel was not purchased in, and the tax thereon paid, to
8 such state; *[or]*

9 (e) Purchased and used such fuel for small engines that are not used to propel motor vehicles
10 on highways, including but not limited to those that power lawn mowers, leaf blowers, chain saws
11 and similar implements[.]; **or**

12 **(f) Purchased and used such fuel for a motor vehicle, if the person has paid the vehicle**
13 **road usage charge as required under section 2 of this 2011 Act.**

14 (2) When a motor vehicle with auxiliary equipment uses fuel and there is no auxiliary motor for
15 such equipment or separate tank for such a motor, a refund may be claimed and allowed as provided
16 by subsection (4) of this section, except as otherwise provided by this subsection, without the ne-
17 cessity of furnishing proof of the amount of fuel used in the operation of the auxiliary equipment.
18 The person claiming the refund may present to the Department of Transportation a statement of the
19 claim and be allowed a refund as follows:

20 (a) For fuel used in pumping aircraft fuel, motor vehicle fuel, fuel or heating oils or other pe-
21 troleum products by a power take-off unit on a delivery truck, refund shall be allowed claimant for
22 tax paid on fuel purchased at the rate of three-fourths of one gallon for each 1,000 gallons of pe-
23 troleum products delivered.

24 (b) For fuel used in operating a power take-off unit on a cement mixer truck or on a garbage
25 truck, claimant shall be allowed a refund of 25 percent of the tax paid on all fuel used in such a
26 truck.

27 (3) When a person purchases and uses motor vehicle fuel in a vehicle equipped with a power
28 take-off unit, a refund may be claimed for fuel used to operate the power take-off unit provided the
29 vehicle is equipped with a metering device approved by the department and designed to operate only
30 while the vehicle is stationary and the parking brake is engaged; the quantity of fuel measured by
31 the metering device shall be presumed to be the quantity of fuel consumed by the operation of the
32 power take-off unit.

33 (4) Before any such refund may be granted, the person claiming such refund must present to the
34 department a statement, accompanied by the original invoices, or reasonable facsimiles approved by
35 the department, showing such purchases; provided that in lieu of original invoices or facsimiles, re-
36 funds submitted under subsection (1)(d) of this section shall be accompanied by information showing
37 source of the fuel used and evidence of payment of tax to the state in which the fuel was used. The
38 statement shall be made over the signature of the claimant, and shall state the total amount of such
39 fuel for which the claimant is entitled to be reimbursed under subsection (1) of this section. The
40 department upon the presentation of the statement and invoices or facsimiles, or other required
41 documents, shall cause to be repaid to the claimant from the taxes collected on motor vehicle fuel
42 such taxes so paid by the claimant.

43 **(5)(a) The department, by rule, may provide a refund to a person under subsection (1)(f)**
44 **of this section as a credit against future vehicle road usage charges under section 2 of this**
45 **2011 Act.**

1 **(b) The department may provide for refund thresholds that may be met by aggregating**
2 **refund amounts or by estimating gas tax refunds by vehicle type. If the person claiming the**
3 **refund opts for an estimated refund amount based on vehicle type, the department may not**
4 **require original invoices or reasonable facsimiles showing motor vehicle fuel purchases.**

5 **(c) The person claiming the refund shall render the statement of the claim to the de-**
6 **partment in the manner provided by the department by rule.**

7 **SECTION 25.** ORS 319.550 is amended to read:

8 319.550. A person may not use fuel in a motor vehicle in this state unless the person holds a
9 valid user's license, except that:

10 (1) A nonresident may use fuel in a motor vehicle not registered in Oregon for a period not
11 exceeding 30 days without obtaining a user's license or the emblem provided in ORS 319.600, if, for
12 all fuel used in a motor vehicle in this state, the nonresident pays to a seller, at the time of the sale,
13 the tax provided in ORS 319.530.

14 (2) A user's license is not required for a person who uses fuel in a motor vehicle with a com-
15 bined weight of 26,000 pounds or less if, for all fuel used in a motor vehicle in this state, the person
16 pays to a seller, at the time of the sale, the tax provided in ORS 319.530.

17 (3)(a) A user's license is not required for a person who uses fuel as described in ORS 319.520
18 (7) in the vehicles specified in **this** subsection [(4) of this section] if the person pays to a seller, at
19 the time of the sale, the tax provided in ORS 319.530.

20 [(4)] **(b)** [Subsection (3) of this section] **Paragraph (a) of this subsection** applies to the following
21 vehicles:

22 [(a)] **(A)** Motor homes as defined in ORS 801.350.

23 [(b)] **(B)** Recreational vehicles as defined in ORS 446.003.

24 **(4) A user's license is not required for a person who uses fuel in a plug-in hybrid electric**
25 **motor vehicle, as defined in section 1 of this 2011 Act, that also uses fuels subject to ORS**
26 **319.510 to 319.880.**

27 **SECTION 26.** Upon application by a person, the Department of Transportation may issue
28 **an emblem to a motor vehicle that is subject to the vehicle road usage charge imposed under**
29 **section 2 of this 2011 Act. An emblem issued under this section shall be displayed only upon**
30 **the motor vehicle with respect to which it is issued.**

31 **SECTION 27.** ORS 319.665 is amended to read:

32 319.665. (1) The seller of fuel for use in a motor vehicle shall collect the tax provided by ORS
33 319.530 at the time the fuel is sold, unless one of the following situations applies:

34 (a) The vehicle into which the seller delivers or places the fuel bears a valid permit or user's
35 emblem issued by the Department of Transportation.

36 (b) The fuel is dispensed at a nonretail facility, in which case the seller shall collect any tax
37 owed at the same time the seller collects the purchase price from the person to whom the fuel was
38 dispensed at the nonretail facility. A seller is not required to collect the tax under this paragraph
39 from a person who certifies to the seller that the use of the fuel is exempt from the tax imposed
40 under ORS 319.530.

41 (c) A cardlock card is used for purchase of the fuel at an attended portion of a retail facility
42 equipped with a cardlock card reader, in which case the cardlock card issuer licensed in this state
43 is responsible for collecting and remitting the tax unless the person making the purchase certifies
44 to the seller that the use of the fuel is exempt from the tax imposed under ORS 319.530.

45 **(d) The vehicle is subject to the vehicle road usage charge under section 2 of this 2011**

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2 (2) If a cardlock card is used for purchase of fuel at an attended portion of a retail facility
3 equipped with a cardlock card reader, the seller at the retail facility may deduct fuel purchases
4 made with a cardlock card from the seller's retail transactions if the seller provides the department
5 with the following information:

6 (a) A monthly statement from a cardlock card issuer that details the cardlock card purchases
7 at the retail facility; and

8 (b) A listing of cardlock card issuers and gallons of fuel purchased at the retail facility by the
9 issuers' customers.

10 (3) The department shall supply each seller of fuel for use in a motor vehicle with a chart which
11 sets forth the tax imposed on given quantities of fuel.

12 **SECTION 28.** ORS 319.831 is amended to read:

13 319.831. (1) If a user obtains fuel for use in a motor vehicle in this state and pays the use fuel
14 tax on the fuel obtained, the user may apply for a refund of that part of the use fuel tax paid which
15 is applicable to use of the fuel to propel a motor vehicle:

16 (a) In another state, if the user pays to the other state an additional tax on the same fuel;

17 (b) Upon any road, thoroughfare or property in private ownership;

18 (c) Upon any road, thoroughfare or property, other than a state highway, county road or city
19 street, for the removal of forest products, as defined in ORS 321.005, or the products of such forest
20 products converted to a form other than logs at or near the harvesting site, or for the construction
21 or maintenance of the road, thoroughfare or property, pursuant to a written agreement or permit
22 authorizing the use, construction or maintenance of the road, thoroughfare or property, with or by:

23 (A) An agency of the United States;

24 (B) The State Board of Forestry;

25 (C) The State Forester; or

26 (D) A licensee of an agency named in subparagraph (A), (B) or (C) of this paragraph;

27 (d) By an agency of the United States or of this state or of any county, city or port of this state
28 on any road, thoroughfare or property, other than a state highway, county road or city street;

29 (e) By any incorporated city or town of this state;

30 (f) By any county of this state or by any road assessment district formed under ORS 371.405 to
31 371.535;

32 (g) Upon any county road for the removal of forest products as defined in ORS 321.005, or the
33 products of such forest products converted to a form other than logs at or near the harvesting site,
34 if:

35 (A) Such use upon the county road is pursuant to a written agreement entered into with, or to
36 a permit issued by, the State Board of Forestry, the State Forester or an agency of the United
37 States, authorizing such user to use such road and requiring such user to pay for or to perform the
38 construction or maintenance of the county road;

39 (B) The board, officer or agency that entered into the agreement or granted the permit, by
40 contract with the county court or board of county commissioners, has assumed the responsibility for
41 the construction or maintenance of such county road; and

42 (C) Copies of the agreements or permits required by subparagraphs (A) and (B) of this paragraph
43 are filed with the Department of Transportation;

44 (h) By a school district or education service district of this state or the contractors of a school
45 district or education service district, for those vehicles being used to transport students;

1 (i) By a rural fire protection district organized under the provisions of ORS chapter 478;

2 (j) By any district, as defined in ORS chapter 198, that is not otherwise specifically provided for
3 in this section; [or]

4 (k) By any state agency, as defined in ORS 240.855[.]; or

5 **(L) By a person subject to the vehicle road usage charge under section 2 of this 2011 Act**
6 **if the person has paid the charge.**

7 (2) An application for a refund under subsection (1) of this section shall be filed with the de-
8 partment within 15 months after the date the use fuel tax, for which a refund is claimed, is paid.

9 (3) The application for a refund provided by subsection (1) of this section shall include a signed
10 statement by the applicant indicating the amount of fuel for which a refund is claimed, and the way
11 in which the fuel was used which qualifies the applicant for a refund. If the fuel upon which the
12 refund is claimed was obtained from a seller to whom the use fuel tax was paid, the application shall
13 be supported by the invoices which cover the purchase of the fuel. If the applicant paid the use fuel
14 tax directly to the department, the applicant shall indicate the source of the fuel and the date it
15 was obtained.

16 (4) The department may require any person who applies for a refund provided by subsection (1)
17 of this section to furnish a statement, under oath, giving the person's occupation, description of the
18 machines or equipment in which the fuel was used, the place where used and such other information
19 as the department may require.

20 **(5) The department, by rule, may provide a refund to a person under subsection (1)(L)**
21 **of this section as a credit against future vehicle road usage charges under section 2 of this**
22 **2011 Act.**

23 **SECTION 29.** ORS 367.802 is amended to read:

24 367.802. As used in ORS 367.800 to 367.824:

25 (1) "Agreement" means a written agreement, including but not limited to a contract, for a
26 transportation project that is entered into under ORS 367.806.

27 (2) "Private entity" means any entity that is not a unit of government, including but not limited
28 to a corporation, partnership, company, nonprofit organization or other legal entity or a natural
29 person.

30 (3) "Transportation project" or "project" means any proposed or existing undertaking that fa-
31 cilitates any mode of transportation in this state **or that facilitates the collection of the vehicle**
32 **road usage charge imposed under section 2 of this 2011 Act.**

33 (4) "Unit of government" means any department or agency of the federal government, any state
34 or any agency, office or department of a state, any city, county, district, commission, authority, en-
35 tity, port or other public corporation organized and existing under statutory law or under a voter-
36 approved charter and any intergovernmental entity created under ORS 190.003 to 190.130, 190.410
37 to 190.440 or 190.480 to 190.490.

38 **SECTION 30.** ORS 807.250 is amended to read:

39 807.250. (1) In addition to any requirements under ORS 807.240 and any applicable conditions
40 under ORS 813.500 and 813.520, the Department of Transportation may not issue a hardship permit
41 under ORS 807.240 to a person whose suspension of driving privileges is based upon a conviction
42 of any of the following unless the person submits to the department a recommendation from the
43 judge before whom the person was convicted:

44 (a) ORS 811.140.

45 (b) ORS 811.540.

1 (c) Driving while under the influence of intoxicants. If a person's driving privileges are sus-
2 pended for a conviction for driving while under the influence of intoxicants and the person is de-
3 termined under ORS 813.500 to have a problem condition involving alcohol, inhalants or controlled
4 substances as described in ORS 813.040, the judge must:

5 (A) Make the recommendation with reference to the best interest of the public as well as of the
6 defendant and the recommendation must be in writing.

7 (B) Recommend times, places, routes and days minimally necessary for the person to seek or
8 retain employment, to attend any alcohol or drug treatment or rehabilitation program or to receive
9 necessary medical treatment for the person or a member of the person's immediate family.

10 (2) The department may not issue a hardship permit to a person whose suspension of driving
11 privileges is based on a conviction described in ORS 809.265.

12 (3) The department may not issue a hardship permit to a person whose driver license or driver
13 permit is suspended pursuant to ORS 25.750 to 25.783.

14 (4) The department may not issue a hardship permit to a person whose driving privileges are
15 suspended pursuant to ORS 809.280 (5) or 809.416 (1) or (2).

16 (5) **The department may not issue a hardship permit to a person whose driving privileges
17 are suspended pursuant to section 23 of this 2011 Act.**

18 **SECTION 31. Rules. In accordance with ORS chapter 183, the Department of Transpor-
19 tation shall adopt rules for the implementation, administration and enforcement of sections
20 1 to 19, 20, 22, 23 and 26 of this 2011 Act.**

21 **SECTION 32. Operative date. (1) Sections 1 to 23, 26 and 31 of this 2011 Act and the
22 amendments to ORS 319.280, 319.550, 319.665, 319.831, 367.802 and 807.250 by sections 24, 25
23 and 27 to 30 of this 2011 Act become operative on January 1, 2014.**

24 (2) **The Department of Transportation may take any action before the operative date
25 specified in subsection (1) of this section that is necessary to enable the department to ex-
26 ercise, on and after the operative date specified in subsection (1) of this section, all the du-
27 ties, functions and powers conferred on the department by sections 1 to 23, 26 and 31 of this
28 2011 Act and the amendments to ORS 319.280, 319.550, 319.665, 319.831, 367.802 and 807.250 by
29 sections 24, 25 and 27 to 30 of this 2011 Act.**

30 **SECTION 33. Applicability. Sections 1 to 23, 26 and 31 of this 2011 Act and the amend-
31 ments to ORS 319.280, 319.550, 319.665, 319.831, 367.802 and 807.250 by sections 24, 25 and 27
32 to 30 of this 2011 Act first apply to 2014 model year motor vehicles.**

33 **SECTION 34. Report. No later than October 1, 2012, the Department of Transportation
34 shall report to the interim legislative committees related to transportation on the likelihood
35 that the department could implement the vehicle road usage charge imposed under section
36 2 of this 2011 Act prior to January 1, 2014.**

37 **SECTION 35. Captions. The section captions used in this 2011 Act are provided only for
38 the convenience of the reader and do not become part of the statutory law of this state or
39 express any legislative intent in the enactment of this 2011 Act.**

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