

HOUSE AMENDMENTS TO HOUSE BILL 2328

By COMMITTEE ON TRANSPORTATION AND ECONOMIC DEVELOPMENT

April 8

1 On page 1 of the printed bill, line 2, delete “319.280, 319.831 and 367.802” and insert “319.280,
2 319.550, 319.665, 319.831, 367.802 and 807.250”.

3 Delete lines 12 through 25 and delete pages 2 through 11 and insert:

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

5 **“(1) ‘Electric motor vehicle’ means a motor vehicle that uses electricity as its only**
6 **source of motive power.**

7 **“(2) ‘Highway’ means every public way, road, street, thoroughfare and place, including**
8 **bridges, viaducts and other structures within the boundaries of this state, open, used or in-**
9 **tended for use of the general public for vehicles or vehicular traffic as a matter of right.**

10 **“(3) ‘Lessee’ means a person who leases a motor vehicle that is registered in Oregon and**
11 **who is subject to the vehicle road usage charge under section 2 of this 2011 Act.**

12 **“(4) ‘Plug-in hybrid electric motor vehicle’ means a motor vehicle that uses electricity**
13 **and another source of motive power and is designed for electric plug-in charging.**

14 **“(5) ‘Registered owner’ means a person who is the registered owner of a motor vehicle**
15 **that is registered in Oregon and who is subject to the vehicle road usage charge under sec-**
16 **tion 2 of this 2011 Act.**

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

20 **“(2) A lessee of an electric motor vehicle or plug-in hybrid electric motor vehicle shall**
21 **pay a vehicle road usage charge.**

22 **“(3)(a) Upon approval of the Department of Transportation, notwithstanding ORS 319.020**
23 **and 319.530, a person who operates a motor vehicle other than an electric motor vehicle or**
24 **plug-in hybrid electric motor vehicle may pay the vehicle road usage charge in lieu of any**
25 **tax on motor vehicle fuel imposed under ORS 319.020 or any tax on the use of fuel in a motor**
26 **vehicle under ORS 319.530.**

27 **“(b) To be eligible under this subsection:**

28 **“(A) The person described in paragraph (a) of this subsection shall submit an application**
29 **to the department;**

30 **“(B) The motor vehicle must be capable of electronically reporting the motor vehicle’s**
31 **mileage from the motor vehicle’s odometer; and**

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

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

35 **“(d) If a person decides to no longer pay the vehicle road usage charge and return to**

1 paying the tax on motor vehicle fuel imposed under ORS 319.020 or any tax on the use of fuel
2 in a motor vehicle under ORS 319.530, the person shall notify the department and pay to the
3 department any amount of the vehicle road usage charge that the person has not yet paid.
4 The person shall return to the department any emblem issued pursuant to section 26 of this
5 2011 Act.

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

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

10 “SECTION 3. Methods of reporting vehicle miles traveled. (1) As used in this section,
11 ‘open system’ means an integrated system based on common standards and an operating
12 system accessible to the marketplace whereby components performing the same function can
13 be readily substituted or provided by multiple providers.

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

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

20 “(a) The accuracy of the data collected;

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

22 “(c) The adaptability of the technology used;

23 “(d) The installation of the technology;

24 “(e) The safety of the installation; and

25 “(f) Tamper-resistant technology.

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

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

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

37 “SECTION 4. Collection by Department of Transportation. The Department of Transpor-
38 tation shall provide by rule for the collection of the vehicle road usage charge imposed under
39 section 2 of this 2011 Act.

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

44 “(2) A person shall submit an application for a refund under subsection (1) of this section
45 to the department within 15 months after the date the vehicle road usage charge, for which

1 a refund is claimed, is paid.

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

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

7 “SECTION 6. Investigation of refund applications. The Department of Transportation
8 may investigate refund applications submitted under section 5 of this 2011 Act and gather
9 and compile information in regard to the applications as the department considers necessary
10 to safeguard the state and prevent fraudulent practices in connection with tax refunds and
11 tax evasion. The department may, in order to establish the validity of any application, ex-
12 amine the books and records of the applicant for such purposes. If an applicant does not
13 permit the department to examine the applicant’s books and records, the applicant waives
14 all rights to a refund of the transaction questioned.

15 “SECTION 7. Allocation of moneys. The moneys that the Department of Transportation
16 collects from the vehicle road usage charge imposed under section 2 of this 2011 Act shall
17 be allocated as follows:

18 “(1) 50 percent to the Department of Transportation.

19 “(2) 30 percent to counties for distribution as provided in ORS 366.762.

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

21 “SECTION 8. Reporting vehicle miles traveled. (1) A registered owner or lessee subject
22 to the vehicle road usage charge imposed under section 2 of this 2011 Act shall equip the
23 electric motor vehicle or plug-in hybrid electric motor vehicle with technology, approved by
24 the Department of Transportation, that provides for electronic reporting of miles traveled.

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

29 “(3) The department may, by rule, permit registered owners and lessees to report and
30 pay the vehicle road usage charge on a periodic basis other than the monthly basis pre-
31 scribed in subsection (2) of this section. The department shall describe the process by which
32 a registered owner or lessee may request and receive an alternative reporting and payment
33 schedule.

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

37 “(5) The department shall provide a refund to a registered owner or lessee who has
38 overpaid the vehicle road usage charge. The department may provide the refund, by rule,
39 by a credit against future vehicle road usage charges imposed under section 2 of this 2011
40 Act.

41 “SECTION 9. Penalty for delinquency in paying vehicle road usage charge. (1) Except as
42 provided in subsection (2) of this section, if a registered owner or lessee is delinquent in
43 paying the vehicle road usage charge imposed under section 2 of this 2011 Act on the date
44 specified in section 8 of this 2011 Act, a penalty of \$25 for the first delinquent payment, and
45 a penalty of \$50 for the second delinquent payment and for each subsequent delinquent pay-

1 ment, shall be added to the amount due and the total shall immediately be due and payable.

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

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

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

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

15 “SECTION 10. Collection of delinquent obligation generally; warrant; judgment lien. (1)
16 If a registered owner or lessee fails to pay in full any obligation due under sections 1 to 19
17 of this 2011 Act, the Department of Transportation may issue a warrant under the
18 department’s official seal directed to the sheriff of any county of this state commanding the
19 sheriff to levy upon and sell the real and personal property of the person found within that
20 county, for payment of the amount of the obligation and the cost of executing the warrant,
21 and to return the warrant to the department and pay to the department the money collected
22 from the sale by the time specified in the warrant, not less than 60 days from the date of
23 the warrant.

24 “(2) The sheriff shall, within five days after the receipt of the warrant, record with the
25 clerk of the county a copy of the warrant. The clerk shall enter in the County Clerk Lien
26 Record the name of the person mentioned in the warrant, the amount of the obligation for
27 which the warrant is issued and the date when the copy is recorded. The amount of the
28 warrant shall become a lien upon the title to and interest in property of the person against
29 whom it is issued in the same manner as a judgment that creates a judgment lien under ORS
30 chapter 18.

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

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

42 “SECTION 11. Use of collection agency. (1) The Department of Transportation may en-
43 gage the services of a collection agency to collect any obligation due to the state under
44 sections 1 to 19 of this 2011 Act. The department may engage the services by entering into
45 agreements to pay reasonable charges on a contingent fee or other basis.

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

3 “(3) The collection agency may bring such actions or take such proceedings, including
4 attachment and garnishment proceedings, as may be necessary.

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

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

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

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

17 “(3) The department shall give to the registered owner or lessee written notice of the
18 assessment. The notice may be served personally or by electronic mail or other written
19 means. If given by mail, service shall be made by depositing the notice in the United States
20 mail, postage prepaid, addressed to the registered owner or lessee at the address as it ap-
21 pears in the records of the department.

22 “SECTION 14. Assessing charge and penalty upon failure to make report. (1) If a regis-
23 tered owner or lessee fails to make a report required under section 8 of this 2011 Act, the
24 Department of Transportation shall make an estimate of the amount due, based upon any
25 information available to the department, for the month or months with respect to which the
26 registered owner or lessee failed to make a report, and assess the charges and penalties due
27 from the registered owner or lessee under sections 1 to 19 of this 2011 Act.

28 “(2) The department shall give to the registered owner or lessee written notice of the
29 assessment in the manner prescribed by section 15 of this 2011 Act.

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

34 “(2) If a petition for reassessment is filed within the 30-day period, the Department of
35 Transportation shall reconsider the assessment and, if requested in the petition, shall grant
36 the registered owner or lessee an oral hearing and give the registered owner or lessee 10
37 days’ notice of the time and place of the hearing. The department may continue the hearing
38 from time to time. The department shall serve on the petitioner notice of the department’s
39 finding upon reassessment. If the finding is that a charge or penalty is delinquent, the
40 petitioner shall pay to the department, within 30 days after notice is served, all the charges
41 or penalties found to be delinquent.

42 “(3) Notice required by this section shall be served in the manner prescribed by section
43 13 of this 2011 Act.

44 “SECTION 16. Appeal to circuit court. A person aggrieved by a finding by the Department
45 of Transportation under section 15 of this 2011 Act may appeal to the circuit court of the

1 county in which the person resides. The appeal shall be taken within 60 days from the date
2 of the entry or making of such finding and in the manner provided by law for appeals in
3 actions at law.

4 **“SECTION 17. Time limitation on service of notice of additional assessment.** Except in
5 the case of an alleged fraudulent report, or neglect or refusal to make a report, the De-
6 partment of Transportation may not serve a notice of assessment on the registered owner
7 or lessee after three years have expired since the alleged erroneous report was filed or a
8 report should have been filed.

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

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

19 **“(2)** A person may not intentionally collect, or attempt to collect or receive, a refund of
20 a charge or penalty paid to the Department of Transportation under sections 1 to 19 of this
21 2011 Act to which the person is not entitled.

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

24 **“SECTION 20. Penalties.** A person who violates any provision of sections 1 to 19 of this
25 2011 Act commits a Class A violation.

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

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

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

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

37 **“(2)** This section does not apply to a person who is servicing, repairing or replacing a
38 vehicle metering system.

39 **“(3)** As used in this section, ‘vehicle metering system’ means a system used to record the
40 number of miles traveled for the purpose of complying with the reporting requirements es-
41 tablished under section 8 of this 2011 Act.

42 **“(4)** The offense described in this section, tampering with a vehicle metering system, is
43 a Class A traffic violation.

44 **“SECTION 23. Suspension of driving privileges for failure to pay charge.** (1) The Depart-
45 ment of Transportation shall suspend the driving privileges of any person who accrues the

1 vehicle road usage charge imposed under section 2 of this 2011 Act, or a penalty imposed
2 under section 9 of this 2011 Act, and who fails to pay the charge or penalty when required
3 by section 8 or 9 of this 2011 Act.

4 “(2) The suspension shall continue until the person’s accrued vehicle road usage charges
5 imposed under section 2 of this 2011 Act, or accrued penalties imposed under section 9 of this
6 2011 Act, are paid in full to the department.

7 “(3) If the suspension is imposed following an audit or assessment as described in
8 sections 13 and 14 of this 2011 Act, a person is entitled to administrative review under ORS
9 809.440 of a suspension under this section.

10 “**SECTION 24.** ORS 319.280 is amended to read:

11 “319.280. (1) Any person who has paid any tax on motor vehicle fuel levied or directed to be paid
12 by ORS 319.010 to 319.430 either directly by the collection of the tax by the vendor from the con-
13 sumer, or indirectly by adding the amount of the tax to the price of the fuel and paid by the con-
14 sumer, shall be reimbursed and repaid the amount of such tax paid, except as provided in ORS
15 319.290 to 319.330, if such person has:

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

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

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

23 “(A) Exports the motor vehicle fuel from this state to another state, territory or country, not
24 including a federally recognized Indian reservation located wholly or partially within the borders
25 of this state, where the motor vehicle fuel is unloaded; and

26 “(B) Has a valid motor vehicle fuel dealer’s license or its equivalent issued by the state, terri-
27 tory or country to which the fuel is exported and where it is unloaded;

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

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

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

38 “(2) When a motor vehicle with auxiliary equipment uses fuel and there is no auxiliary motor
39 for such equipment or separate tank for such a motor, a refund may be claimed and allowed as
40 provided by subsection (4) of this section, except as otherwise provided by this subsection, without
41 the necessity of furnishing proof of the amount of fuel used in the operation of the auxiliary equip-
42 ment. The person claiming the refund may present to the Department of Transportation a statement
43 of the claim and be allowed a refund as follows:

44 “(a) For fuel used in pumping aircraft fuel, motor vehicle fuel, fuel or heating oils or other pe-
45 troleum products by a power take-off unit on a delivery truck, refund shall be allowed claimant for

1 tax paid on fuel purchased at the rate of three-fourths of one gallon for each 1,000 gallons of pe-
2 troleum products delivered.

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

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

12 “(4) Before any such refund may be granted, the person claiming such refund must present to
13 the department a statement, accompanied by the original invoices, or reasonable facsimiles approved
14 by the department, showing such purchases; provided that in lieu of original invoices or facsimiles,
15 refunds submitted under subsection (1)(d) of this section shall be accompanied by information show-
16 ing source of the fuel used and evidence of payment of tax to the state in which the fuel was used.
17 The statement shall be made over the signature of the claimant, and shall state the total amount
18 of such fuel for which the claimant is entitled to be reimbursed under subsection (1) of this section.
19 The department upon the presentation of the statement and invoices or facsimiles, or other required
20 documents, shall cause to be repaid to the claimant from the taxes collected on motor vehicle fuel
21 such taxes so paid by the claimant.

22 “(5)(a) **The department, by rule, may provide a refund to a person under subsection (1)(f)**
23 **of this section as a credit against future vehicle road usage charges under section 2 of this**
24 **2011 Act.**

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

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

31 “**SECTION 25.** ORS 319.550 is amended to read:

32 “319.550. A person may not use fuel in a motor vehicle in this state unless the person holds a
33 valid user’s license, except that:

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

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

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

44 “[4] (b) [Subsection (3) of this section] **Paragraph (a) of this subsection** applies to the fol-
45 lowing vehicles:

1 “[(a)] (A) Motor homes as defined in ORS 801.350.

2 “[(b)] (B) Recreational vehicles as defined in ORS 446.003.

3 “(4) A user’s license is not required for a person who uses fuel in a plug-in hybrid electric
4 motor vehicle, as defined in section 1 of this 2011 Act, that also uses fuels subject to ORS
5 319.510 to 319.880.

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

10 “**SECTION 27.** ORS 319.665 is amended to read:

11 “319.665. (1) The seller of fuel for use in a motor vehicle shall collect the tax provided by ORS
12 319.530 at the time the fuel is sold, unless one of the following situations applies:

13 “(a) The vehicle into which the seller delivers or places the fuel bears a valid permit or user’s
14 emblem issued by the Department of Transportation.

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

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

24 “(d) **The vehicle is subject to the vehicle road usage charge under section 2 of this 2011
25 Act.**

26 “(2) If a cardlock card is used for purchase of fuel at an attended portion of a retail facility
27 equipped with a cardlock card reader, the seller at the retail facility may deduct fuel purchases
28 made with a cardlock card from the seller’s retail transactions if the seller provides the department
29 with the following information:

30 “(a) A monthly statement from a cardlock card issuer that details the cardlock card purchases
31 at the retail facility; and

32 “(b) A listing of cardlock card issuers and gallons of fuel purchased at the retail facility by the
33 issuers’ customers.

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

36 “**SECTION 28.** ORS 319.831 is amended to read:

37 “319.831. (1) If a user obtains fuel for use in a motor vehicle in this state and pays the use fuel
38 tax on the fuel obtained, the user may apply for a refund of that part of the use fuel tax paid which
39 is applicable to use of the fuel to propel a motor vehicle:

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

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

42 “(c) Upon any road, thoroughfare or property, other than a state highway, county road or city
43 street, for the removal of forest products, as defined in ORS 321.005, or the products of such forest
44 products converted to a form other than logs at or near the harvesting site, or for the construction
45 or maintenance of the road, thoroughfare or property, pursuant to a written agreement or permit

1 authorizing the use, construction or maintenance of the road, thoroughfare or property, with or by:

2 “(A) An agency of the United States;

3 “(B) The State Board of Forestry;

4 “(C) The State Forester; or

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

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

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

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

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

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

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

21 “(C) Copies of the agreements or permits required by subparagraphs (A) and (B) of this para-
22 graph are filed with the Department of Transportation;

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

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

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

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

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

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

33 “(3) The application for a refund provided by subsection (1) of this section shall include a signed
34 statement by the applicant indicating the amount of fuel for which a refund is claimed, and the way
35 in which the fuel was used which qualifies the applicant for a refund. If the fuel upon which the
36 refund is claimed was obtained from a seller to whom the use fuel tax was paid, the application shall
37 be supported by the invoices which cover the purchase of the fuel. If the applicant paid the use fuel
38 tax directly to the department, the applicant shall indicate the source of the fuel and the date it
39 was obtained.

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

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

1 **2011 Act.**

2 **“SECTION 29.** ORS 367.802 is amended to read:

3 “367.802. As used in ORS 367.800 to 367.824:

4 “(1) ‘Agreement’ means a written agreement, including but not limited to a contract, for a
5 transportation project that is entered into under ORS 367.806.

6 “(2) ‘Private entity’ means any entity that is not a unit of government, including but not limited
7 to a corporation, partnership, company, nonprofit organization or other legal entity or a natural
8 person.

9 “(3) ‘Transportation project’ or ‘project’ means any proposed or existing undertaking that facil-
10 itates any mode of transportation in this state **or that facilitates the collection of the vehicle**
11 **road usage charge imposed under section 2 of this 2011 Act.**

12 “(4) ‘Unit of government’ means any department or agency of the federal government, any state
13 or any agency, office or department of a state, any city, county, district, commission, authority, en-
14 tity, port or other public corporation organized and existing under statutory law or under a voter-
15 approved charter and any intergovernmental entity created under ORS 190.003 to 190.130, 190.410
16 to 190.440 or 190.480 to 190.490.

17 **“SECTION 30.** ORS 807.250 is amended to read:

18 “807.250. (1) In addition to any requirements under ORS 807.240 and any applicable conditions
19 under ORS 813.500 and 813.520, the Department of Transportation may not issue a hardship permit
20 under ORS 807.240 to a person whose suspension of driving privileges is based upon a conviction
21 of any of the following unless the person submits to the department a recommendation from the
22 judge before whom the person was convicted:

23 “(a) ORS 811.140.

24 “(b) ORS 811.540.

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

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

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

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

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

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

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

42 **“SECTION 31. Rules.** In accordance with ORS chapter 183, the Department of Transpor-
43 tation shall adopt rules for the implementation, administration and enforcement of sections
44 **1 to 19, 20, 22, 23 and 26 of this 2011 Act.**

45 **“SECTION 32. Operative date.** (1) Sections 1 to 23, 26 and 31 of this 2011 Act and the

1 amendments to ORS 319.280, 319.550, 319.665, 319.831, 367.802 and 807.250 by sections 24, 25
2 and 27 to 30 of this 2011 Act become operative on January 1, 2014.

3 “(2) The Department of Transportation may take any action before the operative date
4 specified in subsection (1) of this section that is necessary to enable the department to ex-
5 ercise, on and after the operative date specified in subsection (1) of this section, all the du-
6 ties, functions and powers conferred on the department by sections 1 to 23, 26 and 31 of this
7 2011 Act and the amendments to ORS 319.280, 319.550, 319.665, 319.831, 367.802 and 807.250 by
8 sections 24, 25 and 27 to 30 of this 2011 Act.

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

12 “SECTION 34. Report. No later than October 1, 2012, the Department of Transportation
13 shall report to the interim legislative committees related to transportation on the likelihood
14 that the department could implement the vehicle road usage charge imposed under section
15 2 of this 2011 Act prior to January 1, 2014.

16 “SECTION 35. Captions. The section captions used in this 2011 Act are provided only for
17 the convenience of the reader and do not become part of the statutory law of this state or
18 express any legislative intent in the enactment of this 2011 Act.”.

19
