

# House Bill 3268

Sponsored by Representative HOLVEY (at the request of Frank Vignola)

## 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**.

Imposes tax on each fuel supplier and utility based on amount of carbon in carbon-based fuel that is sold by fuel supplier to consumers in state or that is used to produce carbon-generated electricity supplied by utility to consumers in state. Continuously appropriates moneys from tax revenues for purpose of reducing carbon emissions and use of carbon-based fuels.

Applies to carbon-based fuel sold to consumers or used to produce carbon-generated electricity on or after effective date of Act.

Takes effect only if House Joint Resolution 33 (2011) is approved by people at next regular general election. Takes effect on effective date of constitutional amendment proposed in House Joint Resolution 33 (2011).

## A BILL FOR AN ACT

1  
2 Relating to carbon tax; appropriating money; prescribing an effective date; and providing for re-  
3 venue raising that requires approval by a three-fifths majority.

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

5 **SECTION 1. As used in sections 1 to 5 of this 2011 Act:**

6 (1) **“Carbon-based fuel” means coal, natural gas, petroleum products and any other**  
7 **product used for fuel that contains carbon and emits carbon dioxide when combusted.**  
8 **“Carbon-based fuel” does not include any product used for fuel that is derived from a re-**  
9 **source that is less than 1,000 years old in its natural state.**

10 (2) **“Carbon-based fuel group” means a group of carbon-based fuels that contain similar**  
11 **levels of carbon.**

12 (3) **“Carbon-generated electricity” means electric energy that is produced by using a**  
13 **carbon-based fuel. “Carbon-generated electricity” does not include electric energy produced**  
14 **by using a fuel that is derived from a resource that is less than 1,000 years old in its natural**  
15 **state.**

16 (4) **“Fuel supplier” means a person that sells carbon-based fuel to consumers.**

17 (5) **“Utility” means a public utility operating under ORS chapter 757, a people’s utility**  
18 **district operating under ORS chapter 261, a municipal utility operating under ORS chapter**  
19 **225 or any other entity that supplies carbon-generated electricity to consumers.**

20 **SECTION 2. (1) A tax is imposed on each fuel supplier and utility at a rate of \$\_\_\_\_\_**  
21 **per ton of carbon in a carbon-based fuel that is:**

22 (a) **Sold by a fuel supplier to consumers in this state; or**

23 (b) **Used to produce carbon-generated electricity that is supplied by a utility to consum-**  
24 **ers in this state.**

25 (2) **The Department of Revenue shall calculate the tax liability of a fuel supplier or utility**  
26 **by multiplying the rate designated in subsection (1) of this section by the total amount of**  
27 **carbon in each carbon-based fuel group that is:**

**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 (a) Sold by the fuel supplier to consumers in this state in the previous calendar year; or

2 (b) Used to produce carbon-generated electricity supplied by the utility to consumers in  
3 this state in the previous calendar year.

4 (3)(a) If a utility is unable to provide the information required for the calculation under  
5 subsection (2) of this section, the Department of Revenue shall calculate the utility's tax li-  
6 ability by multiplying the rate designated in subsection (1) of this section by the product of  
7 the average amount of carbon used in the generation of one kilowatt of electricity supplied  
8 by the utility and the total number of kilowatts of electricity supplied by the utility to con-  
9 sumers in this state.

10 (b) The State Department of Energy shall calculate the average amount of carbon used  
11 in the generation of one kilowatt of electricity supplied by the utility by estimating the ratio  
12 of carbon contributed by each carbon-based fuel group to the total amount of carbon  
13 produced in the generation of the electricity. Each year, the State Department of Energy  
14 shall recalculate and report to the Department of Revenue the average amount of carbon  
15 used in the generation of one kilowatt of electricity supplied by the utility to take into ac-  
16 count any changes in the ratio of carbon-based fuel groups used in the generation of the  
17 electricity.

18 (4) The Department of Revenue and the State Department of Energy may adopt any rules  
19 necessary for the calculation and collection of the tax imposed under this section.

20 (5) The tax imposed under this section does not apply to:

21 (a) Carbon-based fuel or carbon-generated electricity that this state is prohibited from  
22 taxing under the Constitution or laws of the United States or the Constitution or laws of the  
23 State of Oregon.

24 (b) Any fuel supplier or utility that is administered by a federal agency.

25 (c) Any carbon-based fuel or carbon-generated electricity that is transported through  
26 this state but not consumed in this state.

27 **SECTION 3.** Moneys received by the Department of Revenue pursuant to the tax imposed  
28 under section 2 of this 2011 Act shall be deposited in a suspense account created pursuant  
29 to ORS 293.445. After payment of administrative expenses and refunds, moneys in the ac-  
30 count are continuously appropriated to the State Department of Energy for the following  
31 purposes:

32 (1) Funding construction or installation of alternative energy systems that do not release  
33 carbon emissions into air or water or onto land; and

34 (2) Funding implementation of systems or programs that result in the reduction of the  
35 use of carbon-based fuels.

36 **SECTION 4.** Unless the context requires otherwise, the provisions of ORS chapters 305,  
37 314, 316, 317 and 318 that relate to the audit and examination of reports and returns,  
38 confidentiality and disclosure of reports and returns, determination of deficiencies, assess-  
39 ments, claims for refunds, penalties, interest, jeopardy assessments, warrants, conferences  
40 and appeals to the Oregon Tax Court, and related procedures, apply to sections 1 to 5 of this  
41 2011 Act, the same as if the tax were a tax imposed upon or measured by net income.

42 **SECTION 5.** For the purpose of first calculating the tax imposed under section 2 of this  
43 2011 Act, the State Department of Energy shall determine the percentage of carbon in each  
44 carbon-based fuel group and report those percentages to the Department of Revenue.

45 **SECTION 6.** Sections 1 to 5 of this 2011 Act apply to carbon-based fuel sold to consumers

1 or used to produce carbon-generated electricity on or after the effective date of this 2011  
2 Act.

3 **SECTION 7.** This 2011 Act does not take effect unless the amendments to the Oregon  
4 Constitution proposed by House Joint Resolution 33 (2011) is approved by the people at the  
5 next regular general election held throughout this state. This 2011 Act takes effect on the  
6 effective date of House Joint Resolution 33 (2011).

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