

**A-Engrossed**  
**House Bill 3597**

Ordered by the House April 27  
Including House Amendments dated April 27

Sponsored by Representative GILLIAM; Representatives KRIEGER, WITT

**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.

*[Modifies policy regarding comprehensive statewide program for solid waste management. Modifies definition of "recycling" for provisions relating to solid waste management and certain reuse and recycling.]*

*[Modifies definition of "recycled material" for provisions relating to reuse and recycling of certain plastics. Applies to sale, offer for sale or use in association with sale or offer for sale of products on or after September 1, 2011, and to determinations for recycling rate made for calendar year 2012 and subsequent calendar years.]*

**Provides that certain conversion of waste plastics shall be considered recycling for certain purposes related to comprehensive statewide program for solid waste management.**

For purposes of income and corporate excise tax credits allowed for certain energy facilities, modifies definition of "recycling facility" to include equipment used solely for processing waste plastic into synthetic crude oil.

Applies to preliminary certifications issued on or after January 1, 2012.

Takes effect on 91st day following adjournment sine die.

**A BILL FOR AN ACT**

1  
2 Relating to the environment; creating new provisions; amending ORS 469.185; and prescribing an  
3 effective date.

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

5  
6 **ENERGY TAX CREDITS**

7  
8 **SECTION 1.** ORS 469.185, as amended by section 4, chapter 76, Oregon Laws 2010, is amended  
9 to read:

10 469.185. As used in ORS 469.185 to 469.225 and 469.878:

11 (1) "Alternative fuel vehicle" means a vehicle as defined by the Director of the State Depart-  
12 ment of Energy by rule that is used primarily in connection with the conduct of a trade or business  
13 and that is manufactured or modified to use an alternative fuel, including but not limited to elec-  
14 tricity, ethanol, methanol, gasohol and propane or natural gas, regardless of energy consumption  
15 savings.

16 (2) "Car sharing facility" means the expenses of operating a car sharing program, including but  
17 not limited to the fair market value of parking spaces used to store the fleet of cars available for  
18 a car sharing program, but does not include the costs of the fleet of cars.

19 (3) "Car sharing program" means a program in which drivers pay to become members in order  
20 to have joint access to a fleet of cars from a common parking area on an hourly basis. "Car sharing  
21 program" does not include operations conducted by car rental agencies.

**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 (4) "Cost" means the capital costs and expenses necessarily incurred in the acquisition, erection,  
2 construction and installation of a facility, including site development costs and expenses for a  
3 sustainable building practices facility.

4 (5) "Energy facility" means any capital investment for which the first year energy savings yields  
5 a simple payback period of greater than one year. An energy facility includes:

6 (a) Any land, structure, building, installation, excavation, machinery, equipment or device, or  
7 any addition to, reconstruction of or improvement of, land or an existing structure, building, instal-  
8 lation, excavation, machinery, equipment or device necessarily acquired, erected, constructed or in-  
9 stalled by any person in connection with the conduct of a trade or business and actually used in the  
10 processing or utilization of renewable energy resources to:

11 (A) Replace a substantial part or all of an existing use of electricity, petroleum or natural gas;

12 (B) Provide the initial use of energy where electricity, petroleum or natural gas would have been  
13 used;

14 (C) Generate electricity to replace an existing source of electricity or to provide a new source  
15 of electricity for sale by or use in the trade or business;

16 (D) Perform a process that obtains energy resources from material that would otherwise be solid  
17 waste as defined in ORS 459.005; or

18 (E) Manufacture or distribute alternative fuels, including but not limited to electricity, ethanol,  
19 methanol, gasohol or biodiesel.

20 (b) Any acquisition of, addition to, reconstruction of or improvement of land or an existing  
21 structure, building, installation, excavation, machinery, equipment or device necessarily acquired,  
22 erected, constructed or installed by any person in connection with the conduct of a trade or business  
23 in order to substantially reduce the consumption of purchased energy.

24 (c) A necessary feature of a new commercial building or multiple unit dwelling, as dwelling is  
25 defined by ORS 469.160, that causes that building or dwelling to exceed an energy performance  
26 standard in the state building code.

27 (d) The replacement of an electric motor with another electric motor that substantially reduces  
28 the consumption of electricity.

29 (6) "Facility" means an energy facility, recycling facility, transportation facility, car sharing  
30 facility, sustainable building practices facility, alternative fuel vehicle or facilities necessary to op-  
31 erate alternative fuel vehicles, including but not limited to an alternative fuel vehicle refueling  
32 station, a high-efficiency combined heat and power facility, a high-performance home, a  
33 homebuilder-installed renewable energy system, or a renewable energy resource equipment manu-  
34 facturing facility.

35 (7) "High-efficiency combined heat and power facility" means a device or equipment that simul-  
36 taneously produces heat and electricity from a single source of fuel and that meets the criteria es-  
37 tablished for a high-efficiency combined heat and power facility under ORS 469.197.

38 (8) "High-performance home" means a new single-family dwelling that:

39 (a) Is designed and constructed to reduce net purchased energy through use of both energy ef-  
40 ficiency and on-site renewable energy resources; and

41 (b) Meets the criteria established for a high-performance home under ORS 469.197.

42 (9) "Homebuilder-installed renewable energy system" means a renewable energy resource system  
43 that:

44 (a) Meets the criteria established for a renewable energy resource system under ORS 469.197;  
45 and

1 (b) Is installed in a new single-family dwelling by, or at the direction of, the homebuilder con-  
2 structing the dwelling.

3 (10) “Qualified transit pass contract” means a purchase agreement entered into between a  
4 transportation provider and a person, the terms of which obligate the person to purchase transit  
5 passes on behalf or for the benefit of employees, students, patients or other individuals over a  
6 specified period of time.

7 (11) “Recycling facility” means equipment used by a trade or business solely for recycling:

8 (a) Including:

9 (A) Equipment used solely for hauling and refining used oil;

10 (B) New vehicles or modifications to existing vehicles used solely to transport used recyclable  
11 materials that cannot be used further in their present form or location such as glass, metal, paper,  
12 aluminum, rubber and plastic;

13 (C) Trailers, racks or bins that are used for hauling used recyclable materials and are added to  
14 or attached to existing waste collection vehicles; *[and]*

15 (D) Any equipment used solely for processing recyclable materials such as balers, flatteners,  
16 crushers, separators and scales[.]; **and**

17 **(E) Any equipment used solely for processing waste plastic into synthetic crude oil.**

18 (b) But not including equipment used for transporting or processing scrap materials that are  
19 recycled as a part of the normal operation of a trade or business as defined by the director.

20 (12)(a) “Renewable energy resource” includes, but is not limited to:

21 (A) Straw, forest slash, wood waste or other wastes from farm or forest land, nonpetroleum plant  
22 or animal based biomass, ocean wave energy, solar energy, wind power, water power or geothermal  
23 energy;

24 (B) A hydroelectric generating facility that obtains all applicable permits and complies with all  
25 state and federal statutory requirements for the protection of fish and wildlife and:

26 (i) That does not exceed 10 megawatts of installed capacity; or

27 (ii) Qualifies as a research, development or demonstration facility; or

28 (C) A renewable energy storage device as defined by the director by rule.

29 (b) “Renewable energy resource” does not include a hydroelectric generating facility that is not  
30 described in paragraph (a) of this subsection.

31 (13) “Renewable energy resource equipment manufacturing facility” means any structure, build-  
32 ing, installation, excavation, machinery, equipment or device, or an addition, reconstruction or im-  
33 provement to land or an existing structure, building, installation, excavation, machinery, equipment  
34 or device, that is necessarily acquired, constructed or installed by a person in connection with the  
35 conduct of a trade or business, that is used primarily to manufacture:

36 (a) Equipment, machinery or other products designed to use a renewable energy resource and  
37 that meets the criteria established under ORS 469.197.

38 (b) Electric vehicles, including three-wheeled vehicles, that are designed for use as Class I or  
39 Class II all-terrain vehicles, as those terms are defined in ORS 801.190 and 801.193, and that are  
40 used for agricultural, commercial, industrial or governmental purposes, or designed for use as modes  
41 of transportation on public roads and highways, or component parts of electric vehicles, but not  
42 including component parts that may be used in both electric and conventional vehicles. The director  
43 may further define “agricultural, commercial, industrial or governmental purposes” of electric vehi-  
44 cles by rule. For purposes of this paragraph, “component parts” does not include batteries.

45 (c) Renewable energy storage devices.

1 (14) "Sustainable building practices facility" means a commercial building in which building  
2 practices that reduce the amount of energy, water or other resources needed for construction and  
3 operation of the building are used. "Sustainable building practices facility" may be further defined  
4 by the State Department of Energy by rule, including rules that establish traditional building prac-  
5 tice baselines in energy, water or other resource usage for comparative purposes for use in deter-  
6 mining whether a facility is a sustainable building practices facility.

7 (15) "Transportation facility" means a transportation project that reduces energy use during  
8 commuting to and from work or school, during work-related travel, or during travel to obtain med-  
9 ical or other services, and may be further defined by the department by rule. "Transportation facil-  
10 ity" includes, but is not limited to:

11 (a) A qualified transit pass contract or a transportation services contract; or

12 (b) The purchase of efficient truck technology and related truck trailers, as defined in ORS  
13 801.580, for commercial motor vehicles, as defined in ORS 801.208, that are registered under ORS  
14 803.420, or for commercial motor vehicles that are proportionally registered under ORS 826.009 or  
15 826.011.

16 (16) "Transportation provider" means a public, private or nonprofit entity that provides trans-  
17 portation services to members of the public.

18 (17) "Transportation services contract" means a contract that is related to a transportation fa-  
19 cility, and may be further defined by the department by rule.

20  
21 **WASTE PLASTICS**

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23 **SECTION 2. Section 3 of this 2011 Act is added to and made a part of ORS 459.005 to**  
24 **459.426.**

25 **SECTION 3. Notwithstanding any other provisions of ORS 459.015, and solely for the**  
26 **purpose of encouraging the recovery of energy from waste plastics that cannot be econom-**  
27 **ically recycled, the conversion of waste plastics that cannot be economically recycled to oil**  
28 **using pyrolysis shall be considered recycling under ORS 459.015 (2)(a)(C).**

29  
30 **MISCELLANEOUS**

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32 **SECTION 4. The amendments to ORS 469.185 by section 1 of this 2011 Act apply to pre-**  
33 **liminary certifications issued under ORS 469.210 on or after January 1, 2012.**

34 **SECTION 5. The unit captions used in this 2011 Act are provided only for the convenience**  
35 **of the reader and do not become part of the statutory law of this state or express any leg-**  
36 **islative intent in the enactment of this 2011 Act.**

37 **SECTION 6. This 2011 Act takes effect on the 91st day after the date on which the 2011**  
38 **regular session of the Seventy-sixth Legislative Assembly adjourns sine die.**