

# Senate Bill 620

Sponsored by Senator BOQUIST (at the request of Tomas Endicott)

## 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**.

Extends applicability of tax credits available for activities related to biomass. Defines "oilseed processor" for purpose of tax credit provisions.

## A BILL FOR AN ACT

1  
2 Relating to tax credits for biomass; amending ORS 315.141 and sections 6 and 29, chapter 739,  
3 Oregon Laws 2007.

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

5 **SECTION 1.** ORS 315.141 is amended to read:

6 315.141. (1) As used in this section:

7 (a) "Agricultural producer" means a person that produces biomass in Oregon that is used, in  
8 Oregon, as biofuel or to produce biofuel.

9 (b) "Biofuel" means liquid, gaseous or solid fuels, derived from biomass, that have been con-  
10 verted into a processed fuel ready for use as energy by a biofuel producer's customers or for direct  
11 biomass energy use at the biofuel producer's site.

12 (c) "Biofuel producer" means a person that through activities in Oregon:

13 (A) Alters the physical makeup of biomass to convert it into biofuel;

14 (B) Changes one biofuel into another type of biofuel; or

15 (C) Uses biomass in Oregon to produce energy.

16 (d) "Biomass" means organic matter that is available on a renewable or recurring basis and that  
17 is derived from:

18 (A) Forest or rangeland woody debris from harvesting or thinning conducted to improve forest  
19 or rangeland ecological health and reduce uncharacteristic stand replacing wildfire risk;

20 (B) Wood material from hardwood timber described in ORS 321.267 (3);

21 (C) Agricultural residues;

22 (D) Offal and tallow from animal rendering;

23 (E) Food wastes collected as provided under ORS chapter 459 or 459A;

24 (F) Yard or wood debris collected as provided under ORS chapter 459 or 459A;

25 (G) Wastewater solids; or

26 (H) Crops grown solely to be used for energy.

27 (e) "Biomass" does not mean wood that has been treated with creosote, pentachlorophenol, in-  
28 organic arsenic or other inorganic chemical compounds or waste, other than matter described in  
29 paragraph (d) of this subsection.

30 (f) "Biomass collector" means a person that collects biomass in Oregon to be used, in Oregon,  
31 as biofuel or to produce biofuel.

**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       **(g) “Oilseed processor” means a person that receives agricultural oilseeds and separates**  
2 **them into meal and oil by mechanical or chemical means.**

3       (2) The Director of the State Department of Energy may adopt rules to define criteria, only as  
4 the criteria apply to organic biomass, to determine additional characteristics of biomass for purposes  
5 of this section.

6       (3)(a) An agricultural producer or biomass collector shall be allowed a credit against the taxes  
7 that would otherwise be due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS  
8 chapter 317 or 318 for:

9       (A) The production of biomass in Oregon that is used, in Oregon, as biofuel or to produce  
10 biofuel; or

11       (B) The collection of biomass in Oregon that is used, in Oregon, as biofuel or to produce biofuel.

12       (b) A credit under this section may be claimed in the tax year in which the [*credit is certified*  
13 *under subsection (5) of this section*] **agricultural producer or biomass collector transfers biomass**  
14 **to a biofuel producer or oilseed processor.**

15       (c) A taxpayer may be allowed a credit under this section for more than one of the roles defined  
16 in subsection (1) of this section, but a biofuel producer that is not also an agricultural producer or  
17 a biomass collector may not claim a credit under this section.

18       (d) Notwithstanding paragraph (a) of this subsection, a tax credit is not allowed for grain corn,  
19 but a tax credit shall be allowed for other corn material.

20       (4) The amount of the credit shall equal the amount certified under subsection (5) of this section.

21       (5)(a) The State Department of Energy may establish by rule procedures and criteria for deter-  
22 mining the amount of the tax credit to be certified under this section, consistent with ORS 469.790.  
23 The department shall provide written certification to taxpayers that are eligible to claim the credit  
24 under this section.

25       (b) The State Department of Energy may charge and collect a fee from taxpayers for certif-  
26 ication of credits under this section. The fee may not exceed the cost to the department of deter-  
27 mining the amount of certified cost.

28       (c) The State Department of Energy shall provide to the Department of Revenue a list, by tax  
29 year, of taxpayers for which a credit is certified under this section, upon request of the Department  
30 of Revenue.

31       (6) The amount of the credit claimed under this section for any tax year may not exceed the tax  
32 liability of the taxpayer.

33       (7) Each agricultural producer or biomass collector shall maintain the written documentation  
34 of the amount certified for tax credit under this section in its records for a period of at least five  
35 years after the tax year in which the credit is claimed and provide the written documentation to the  
36 Department of Revenue upon request.

37       (8) The credit shall be claimed on a form prescribed by the Department of Revenue that contains  
38 the information required by the department.

39       (9) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a  
40 particular tax year may be carried forward and offset against the taxpayer’s tax liability for the next  
41 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried  
42 forward and used in the second succeeding tax year, and likewise any credit not used in that second  
43 succeeding tax year may be carried forward and used in the third succeeding tax year, and any  
44 credit not used in that third succeeding tax year may be carried forward and used in the fourth  
45 succeeding tax year, but may not be carried forward for any tax year thereafter.

1 (10) In the case of a credit allowed under this section:

2 (a) A nonresident shall be allowed the credit under this section in the proportion provided in  
3 ORS 316.117.

4 (b) If a change in the status of the taxpayer from resident to nonresident or from nonresident  
5 to resident occurs, the credit allowed by this section shall be determined in a manner consistent  
6 with ORS 316.117.

7 (c) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085, or if the  
8 department terminates the taxpayer's taxable year under ORS 314.440, the credit allowed under this  
9 section shall be prorated or computed in a manner consistent with ORS 314.085.

10 **SECTION 2.** Section 6, chapter 739, Oregon Laws 2007, as amended by section 5, chapter 590,  
11 Oregon Laws 2007, and section 18, chapter 913, Oregon Laws 2009, is amended to read:

12 **Sec. 6.** (1) ORS 315.141, 315.144 and 469.790 apply to tax credits for tax years beginning on or  
13 after January 1, 2007, and before January 1, [2012] **2019**.

14 (2) Notwithstanding subsection (1) of this section, a tax credit is not allowed for wheat grain  
15 (other than nongrain wheat material) [*before*] **for** tax years beginning [*on or after*] **before** January  
16 1, 2009, or on or after January 1, [2012] **2019**.

17 **SECTION 3.** Section 29, chapter 739, Oregon Laws 2007, as amended by section 17, chapter 913,  
18 Oregon Laws 2009, is amended to read:

19 **Sec. 29.** ORS 315.465 and 315.469 apply to tax years beginning on or after January 1, 2007, and  
20 before January 1, [2012] **2019**.

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