

HB 2328-A9
(LC 1440)
4/19/11 (HE/ps)

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 2328**

1 On page 1 of the printed A-engrossed bill, line 2, delete the last comma
2 and insert "and".

3 In line 3, delete "and 807.250".

4 Delete lines 13 through 22 and delete pages 2 through 12 and insert:

5 **"SECTION 1. Definitions. As used in sections 1 to 9 of this 2011 Act:**

6 **"(1) 'Electric motor vehicle' means a motor vehicle that uses elec-**
7 **tricity as its only source of motive power.**

8 **"(2) 'Highway' means every public way, road, street, thoroughfare**
9 **and place, including bridges, viaducts and other structures within the**
10 **boundaries of this state, open, used or intended for use of the general**
11 **public for vehicles or vehicular traffic as a matter of right.**

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

15 **"(4) 'Plug-in hybrid electric motor vehicle' means a motor vehicle**
16 **that uses electricity and another source of motive power and is de-**
17 **signed for electric plug-in charging.**

18 **"(5) 'Registered owner' means a person who is the registered owner**
19 **of a motor vehicle that is registered in Oregon and who is subject to**
20 **the vehicle road usage charge under section 2 of this 2011 Act.**

21 **"SECTION 2. Vehicle road usage charge. (1) Except as provided in**
22 **subsection (2) of this section, the registered owner of an electric motor**

1 vehicle or plug-in hybrid electric motor vehicle shall pay a vehicle road
2 usage charge.

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

5 “(3)(a) Upon approval of the Department of Transportation, not-
6 withstanding ORS 319.020 and 319.530, a person who operates a motor
7 vehicle other than an electric motor vehicle or plug-in hybrid electric
8 motor vehicle may pay the vehicle road usage charge in lieu of any tax
9 on motor vehicle fuel imposed under ORS 319.020 or any tax on the
10 use of fuel in a motor vehicle under ORS 319.530.

11 “(b) To be eligible under this subsection:

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

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

16 “(C) The motor vehicle must have a gross vehicle weight rating of
17 10,000 pounds or less.

18 “(c) The maximum number of motor vehicles that may qualify un-
19 der this subsection at any given time is 5,000.

20 “(d) If a person decides to no longer pay the vehicle road usage
21 charge and return to paying the tax on motor vehicle fuel imposed
22 under ORS 319.020 or any tax on the use of fuel in a motor vehicle
23 under ORS 319.530, the person shall notify the department and pay to
24 the department any amount of the vehicle road usage charge that the
25 person has not yet paid. The person shall return to the department
26 any emblem issued pursuant to section 13 of this 2011 Act.

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

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

1 **SECTION 3. Methods of reporting vehicle miles traveled.** (1) As
2 used in this section, ‘open system’ means an integrated system based
3 on common standards and an operating system accessible to the mar-
4 ketplace whereby components performing the same function can be
5 readily substituted or provided by multiple providers.

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

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

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

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

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

17 “(d) The installation of the technology;

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

19 “(f) Tamper-resistant technology.

20 “(4) The department shall establish at least one method of collect-
21 ing and reporting the number of miles traveled by the motor vehicle
22 that does not use vehicle location technology.

23 “(5) The department may require that a vehicle subject to the ve-
24 hicle road usage charge be capable of electronically reporting the
25 odometer reading or be equipped with technology approved by the de-
26 partment that is capable of electronically reporting the odometer
27 reading.

28 “(6) The department shall establish standards under an open system
29 for technology used in methods for identifying motor vehicles that are
30 subject to the vehicle road usage charge imposed under section 2 of

1 this 2011 Act and methods for reporting the number of miles the motor
2 vehicles traveled on the highway system. In developing the standards
3 and systems, the department shall collaborate with state agencies to
4 integrate information systems currently in use or planned for future
5 use.

6 “SECTION 4. Collection by Department of Transportation. The De-
7 partment of Transportation shall provide by rule for the collection of
8 the vehicle road usage charge imposed under section 2 of this 2011 Act.

9 “SECTION 5. Refund of vehicle road usage charge in operation of
10 vehicle on certain roads or property. (1) A registered owner or lessee
11 who pays the vehicle road usage charge imposed under section 2 of this
12 2011 Act may apply to the Department of Transportation for a refund
13 of those miles traveled upon any road, thoroughfare or property in
14 private ownership.

15 “(2) A person shall submit an application for a refund under sub-
16 section (1) of this section to the department within 15 months after the
17 date the vehicle road usage charge, for which a refund is claimed, is
18 paid.

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

22 “(4) The department may require any person who applies for a re-
23 fund under subsection (1) of this section to furnish any other infor-
24 mation the department considers necessary.

25 “SECTION 6. Investigation of refund applications. The Department
26 of Transportation may investigate refund applications submitted under
27 section 5 of this 2011 Act and gather and compile information in regard
28 to the applications as the department considers necessary to safeguard
29 the state and prevent fraudulent practices in connection with tax re-
30 funds and tax evasion. The department may, in order to establish the

1 validity of any application, examine the books and records of the ap-
2 plicant for such purposes. If an applicant does not permit the depart-
3 ment to examine the applicant's books and records, the applicant
4 waives all rights to a refund of the transaction questioned.

5 **SECTION 7. Allocation of moneys.** The moneys that the Depart-
6 ment of Transportation collects from the vehicle road usage charge
7 imposed under section 2 of this 2011 Act shall be allocated as follows:

8 **“(1) 50 percent to the Department of Transportation.**

9 **“(2) 30 percent to counties for distribution as provided in ORS
10 366.762.**

11 **“(3) 20 percent to cities for distribution as provided in ORS 366.800.**

12 **SECTION 8. Reporting vehicle miles traveled.** (1) A registered
13 owner or lessee subject to the vehicle road usage charge imposed un-
14 der section 2 of this 2011 Act shall equip the electric motor vehicle or
15 plug-in hybrid electric motor vehicle with technology, approved by the
16 Department of Transportation, that provides for electronic reporting
17 of miles traveled.

18 **“(2) On or before the fifth business day of each month, the regis-
19 tered owner or lessee shall report the number of miles the vehicle has
20 traveled and pay to the department the amount due under section 2
21 of this 2011 Act for the preceding calendar month. The number of
22 miles reported shall be rounded up to the next whole mile.**

23 **“(3) The department may, by rule, permit registered owners and
24 lessees to report and pay the vehicle road usage charge on a periodic
25 basis other than the monthly basis prescribed in subsection (2) of this
26 section. The department shall describe the process by which a regis-
27 tered owner or lessee may request and receive an alternative reporting
28 and payment schedule.**

29 **“(4) Unless a registered owner or lessee presents evidence, in a
30 manner approved by the department by rule, that the vehicle has been**

1 driven outside of Oregon, the department may assume that all miles
2 reported are miles driven within Oregon.

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

7 **“SECTION 9. Prohibitions.** (1) A person may not intentionally make
8 a false statement in a report, petition or application required or per-
9 mitted by sections 2, 5, 6 or 8 of this 2011 Act.

10 “(2) A person may not intentionally collect, or attempt to collect
11 or receive, a refund of a charge or penalty paid to the Department of
12 Transportation under sections 2, 5, 6 or 8 of this 2011 Act to which the
13 person is not entitled.

14 “(3) A person may not intentionally aid or assist another person to
15 violate any provision of sections 2, 5, 6 or 8 of this 2011 Act.

16 **“SECTION 10. Penalties.** A person who violates any provision of
17 sections 2, 5, 6 or 8 of this 2011 Act commits a Class A violation.

18 **“SECTION 11.** ORS 319.280 is amended to read:

19 “319.280. (1) Any person who has paid any tax on motor vehicle fuel levied
20 or directed to be paid by ORS 319.010 to 319.430 either directly by the col-
21 lection of the tax by the vendor from the consumer, or indirectly by adding
22 the amount of the tax to the price of the fuel and paid by the consumer, shall
23 be reimbursed and repaid the amount of such tax paid, except as provided in
24 ORS 319.290 to 319.330, if such person has:

25 “(a) Purchased and used such fuel for the purpose of operating or pro-
26 pelling a stationary gas engine, a tractor or a motor boat, if the motor boat
27 is used for commercial purposes at any time during the period for which the
28 refund is claimed;

29 “(b) Purchased and used such fuel for cleaning or dyeing or other com-
30 mercial use, except when used in motor vehicles operated upon any highway;

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

3 “(A) Exports the motor vehicle fuel from this state to another state, ter-
4 ritory or country, not including a federally recognized Indian reservation
5 located wholly or partially within the borders of this state, where the motor
6 vehicle fuel is unloaded; and

7 “(B) Has a valid motor vehicle fuel dealer’s license or its equivalent is-
8 sued by the state, territory or country to which the fuel is exported and
9 where it is unloaded;

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

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

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

22 “(2) When a motor vehicle with auxiliary equipment uses fuel and there
23 is no auxiliary motor for such equipment or separate tank for such a motor,
24 a refund may be claimed and allowed as provided by subsection (4) of this
25 section, except as otherwise provided by this subsection, without the neces-
26 sity of furnishing proof of the amount of fuel used in the operation of the
27 auxiliary equipment. The person claiming the refund may present to the De-
28 partment of Transportation a statement of the claim and be allowed a refund
29 as follows:

30 “(a) For fuel used in pumping aircraft fuel, motor vehicle fuel, fuel or

1 heating oils or other petroleum products by a power take-off unit on a de-
2 livery truck, refund shall be allowed claimant for tax paid on fuel purchased
3 at the rate of three-fourths of one gallon for each 1,000 gallons of petroleum
4 products delivered.

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

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

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

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

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

7 “(c) The person claiming the refund shall render the statement of
8 the claim to the department in the manner provided by the depart-
9 ment by rule.

10 “SECTION 12. ORS 319.550 is amended to read:

11 “319.550. A person may not use fuel in a motor vehicle in this state unless
12 the person holds a valid user’s license, except that:

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

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

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

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

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

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

30 “(4) A user’s license is not required for a person who uses fuel in

1 a plug-in hybrid electric motor vehicle, as defined in section 1 of this
2 2011 Act, that also uses fuels subject to ORS 319.510 to 319.880.

3 **“SECTION 13. Upon application by a person, the Department of**
4 **Transportation may issue an emblem to a motor vehicle that is subject**
5 **to the vehicle road usage charge imposed under section 2 of this 2011**
6 **Act. An emblem issued under this section shall be displayed only upon**
7 **the motor vehicle with respect to which it is issued.**

8 **“SECTION 14. ORS 319.665 is amended to read:**

9 “319.665. (1) The seller of fuel for use in a motor vehicle shall collect the
10 tax provided by ORS 319.530 at the time the fuel is sold, unless one of the
11 following situations applies:

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

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

20 “(c) A cardlock card is used for purchase of the fuel at an attended por-
21 tion of a retail facility equipped with a cardlock card reader, in which case
22 the cardlock card issuer licensed in this state is responsible for collecting
23 and remitting the tax unless the person making the purchase certifies to the
24 seller that the use of the fuel is exempt from the tax imposed under ORS
25 319.530.

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

28 “(2) If a cardlock card is used for purchase of fuel at an attended portion
29 of a retail facility equipped with a cardlock card reader, the seller at the
30 retail facility may deduct fuel purchases made with a cardlock card from the

1 seller's retail transactions if the seller provides the department with the
2 following information:

3 "(a) A monthly statement from a cardlock card issuer that details the
4 cardlock card purchases at the retail facility; and

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

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

10 "**SECTION 15.** ORS 319.831 is amended to read:

11 "319.831. (1) If a user obtains fuel for use in a motor vehicle in this state
12 and pays the use fuel tax on the fuel obtained, the user may apply for a re-
13 fund of that part of the use fuel tax paid which is applicable to use of the
14 fuel to propel a motor vehicle:

15 "(a) In another state, if the user pays to the other state an additional tax
16 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,
19 county road or city street, for the removal of forest products, as defined in
20 ORS 321.005, or the products of such forest products converted to a form
21 other than logs at or near the harvesting site, or for the construction or
22 maintenance of the road, thoroughfare or property, pursuant to a written
23 agreement or permit authorizing the use, construction or maintenance of the
24 road, thoroughfare or property, with or by:

25 "(A) An agency of the United States;

26 "(B) The State Board of Forestry;

27 "(C) The State Forester; or

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

30 "(d) By an agency of the United States or of this state or of any county,

1 city or port of this state on any road, thoroughfare or property, other than
2 a state highway, county road or city street;

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

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

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

9 “(A) Such use upon the county road is pursuant to a written agreement
10 entered into with, or to a permit issued by, the State Board of Forestry, the
11 State Forester or an agency of the United States, authorizing such user to
12 use such road and requiring such user to pay for or to perform the con-
13 struction or maintenance of the county road;

14 “(B) The board, officer or agency that entered into the agreement or
15 granted the permit, by contract with the county court or board of county
16 commissioners, has assumed the responsibility for the construction or main-
17 tenance of such county road; and

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

20 “(h) By a school district or education service district of this state or the
21 contractors of a school district or education service district, for those vehi-
22 cles being used to transport students;

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

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

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

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

30 “(2) An application for a refund under subsection (1) of this section shall

1 be filed with the department within 15 months after the date the use fuel tax,
2 for which a refund is claimed, is paid.

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

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

16 **“(5) The department, by rule, may provide a refund to a person
17 under subsection (1)(L) of this section as a credit against future vehi-
18 cle road usage charges under section 2 of this 2011 Act.**

19 **“SECTION 16.** ORS 367.802 is amended to read:

20 “367.802. As used in ORS 367.800 to 367.824:

21 “(1) ‘Agreement’ means a written agreement, including but not limited to
22 a contract, for a transportation project that is entered into under ORS
23 367.806.

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

27 “(3) ‘Transportation project’ or ‘project’ means any proposed or existing
28 undertaking that facilitates any mode of transportation in this state **or that
29 facilitates the collection of the vehicle road usage charge imposed
30 under section 2 of this 2011 Act.**

1 “(4) ‘Unit of government’ means any department or agency of the federal
2 government, any state or any agency, office or department of a state, any
3 city, county, district, commission, authority, entity, port or other public
4 corporation organized and existing under statutory law or under a voter-
5 approved charter and any intergovernmental entity created under ORS
6 190.003 to 190.130, 190.410 to 190.440 or 190.480 to 190.490.

7 **“SECTION 17. Rules.** In accordance with ORS chapter 183, the De-
8 partment of Transportation shall adopt rules for the implementation,
9 administration and enforcement of sections 1 to 9 and 13 of this 2011
10 Act.

11 **“SECTION 18. Operative date.** (1) Sections 1 to 9, 13 and 17 of this
12 2011 Act and the amendments to ORS 319.280, 319.550, 319.665, 319.831
13 and 367.802 by sections 11, 12 and 14 to 16 of this 2011 Act become op-
14 erative on January 1, 2014.

15 “(2) The Department of Transportation may take any action before
16 the operative date specified in subsection (1) of this section that is
17 necessary to enable the department to exercise, on and after the op-
18 erative date specified in subsection (1) of this section, all the duties,
19 functions and powers conferred on the department by sections 1 to 9,
20 13 and 17 of this 2011 Act and the amendments to ORS 319.280, 319.550,
21 319.665, 319.831 and 367.802 by sections 11, 12 and 14 to 16 of this 2011
22 Act.

23 **“SECTION 19. Applicability.** Sections 1 to 9, 13 and 17 of this 2011
24 Act and the amendments to ORS 319.280, 319.550, 319.665, 319.831 and
25 367.802 by sections 11, 12 and 14 to 16 of this 2011 Act first apply to 2014
26 model year motor vehicles.

27 **“SECTION 20. Report.** No later than October 1, 2012, the Depart-
28 ment of Transportation shall report to the interim legislative com-
29 mittees related to transportation on the likelihood that the
30 department could implement the vehicle road usage charge imposed

1 under section 2 of this 2011 Act prior to January 1, 2014.

2 **SECTION 21. Captions. The section captions used in this 2011 Act**
3 **are provided only for the convenience of the reader and do not become**
4 **part of the statutory law of this state or express any legislative intent**
5 **in the enactment of this 2011 Act.”.**

6

