

**Minority Report**  
**B-Engrossed**  
**House Bill 2435**

Ordered by the Senate June 29  
Including House Amendments dated March 19 and Senate Minority  
Report Amendments dated June 29

Sponsored by nonconcurring members of the Senate Committee on Finance and Revenue: Senators BAERTSCHIGER JR, GEORGE

**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.

Exempts from fuel excise tax diesel fuel blended with minimum 20 percent biodiesel derived from used cooking oil. Excludes from exemption fuel **that is** used in motor vehicles of 26,001 pounds or more, **not sold in retail operations or sold in operations involving fleet fueling or bulk sales.**

Applies to fuel sold on or after January 1, 2014, and before January 1, 2020.

**Adds geothermal energy to types of electrical energy to which net metering statute applies.**

**Allows residential electricity consumer who receives financial assistance from state or federal government to opt out of public purpose charge.**

Takes effect on 91st day following adjournment sine die.

**A BILL FOR AN ACT**

1  
2 Relating to energy; creating new provisions; amending ORS 319.530 and 757.300; and prescribing an  
3 effective date.

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

5 **SECTION 1.** ORS 319.530 is amended to read:

6 319.530. (1) To compensate this state partially for the use of its highways, an excise tax hereby  
7 is imposed at the rate of 30 cents per gallon on the use of fuel in a motor vehicle.

8 **(2)** Except as otherwise provided in subsections [(2) and (3)] **(3) and (4)** of this section, 100 cubic  
9 feet of fuel used or sold in a gaseous state, measured at 14.73 pounds per square inch of pressure  
10 at 60 degrees Fahrenheit, is taxable at the same rate as a gallon of liquid fuel.

11 [(2)] **(3)** One hundred twenty cubic feet of compressed natural gas used or sold in a gaseous  
12 state, measured at 14.73 pounds per square inch of pressure at 60 degrees Fahrenheit, is taxable at  
13 the same rate as a gallon of liquid fuel.

14 [(3)] **(4)** One and three-tenths liquid gallons of propane at 60 degrees Fahrenheit is taxable at  
15 the same rate as a gallon of other liquid fuel.

16 **(5)(a) Except as provided in paragraph (b) of this subsection, the excise tax imposed un-**  
17 **der subsection (1) of this section does not apply to diesel fuel blended with a minimum of 20**  
18 **percent biodiesel that is derived from used cooking oil.**

19 **(b) The exemption provided under paragraph (a) of this subsection does not apply to fuel:**

20 **(A) Used in motor vehicles that have a gross vehicle weight rating of 26,001 pounds or**  
21 **more;**

**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 (B) That is not sold in retail operations; or

2 (C) That is sold in operations involving fleet fueling or bulk sales.

3 **SECTION 2. The amendments to ORS 319.530 by section 1 of this 2013 Act apply to fuel**  
4 **sold on or after January 1, 2014.**

5 **SECTION 3.** ORS 319.530, as amended by section 1 of this 2013 Act, is amended to read:

6 319.530. (1) To compensate this state partially for the use of its highways, an excise tax hereby  
7 is imposed at the rate of 30 cents per gallon on the use of fuel in a motor vehicle.

8 (2) Except as otherwise provided in subsections (3) and (4) of this section, 100 cubic feet of fuel  
9 used or sold in a gaseous state, measured at 14.73 pounds per square inch of pressure at 60 degrees  
10 Fahrenheit, is taxable at the same rate as a gallon of liquid fuel.

11 (3) One hundred twenty cubic feet of compressed natural gas used or sold in a gaseous state,  
12 measured at 14.73 pounds per square inch of pressure at 60 degrees Fahrenheit, is taxable at the  
13 same rate as a gallon of liquid fuel.

14 (4) One and three-tenths liquid gallons of propane at 60 degrees Fahrenheit is taxable at the  
15 same rate as a gallon of other liquid fuel.

16 *[(5)(a) Except as provided in paragraph (b) of this subsection, the excise tax imposed under sub-*  
17 *section (1) of this section does not apply to diesel fuel blended with a minimum of 20 percent biodiesel*  
18 *that is derived from used cooking oil.]*

19 *[(b) The exemption provided under paragraph (a) of this subsection does not apply to fuel:]*

20 *[(A) Used in motor vehicles that have a gross vehicle weight rating of 26,001 pounds or more;]*

21 *[(B) That is not sold in retail operations; or]*

22 *[(C) That is sold in operations involving fleet fueling or bulk sales.]*

23 **SECTION 4. The amendments to ORS 319.530 by section 3 of this 2013 Act apply to fuel**  
24 **sold on or after January 1, 2020.**

25 **SECTION 5.** ORS 757.300 is amended to read:

26 757.300. (1) As used in this section:

27 (a) “Customer-generator” means a user of a net metering facility.

28 (b) “Electric utility” means a public utility, a people’s utility district operating under ORS  
29 chapter 261, a municipal utility operating under ORS chapter 225 or an electric cooperative organ-  
30 ized under ORS chapter 62.

31 (c) “Net metering” means measuring the difference between the electricity supplied by an elec-  
32 tric utility and the electricity generated by a customer-generator and fed back to the electric utility  
33 over the applicable billing period.

34 (d) “Net metering facility” means a facility for the production of electrical energy that:

35 (A) Generates electricity using:

36 (i) Solar power[,];

37 (ii) Wind power[,];

38 (iii) Fuel cells[,];

39 (iv) Hydroelectric power[,];

40 (v) Landfill gas[,];

41 (vi) Digester gas[,];

42 (vii) Waste[,];

43 (viii) Dedicated energy crops available on a renewable basis [*or*];

44 (ix) Low-emission, nontoxic biomass based on solid organic fuels from wood, forest or field res-  
45 idues; **or**

1       **(x) Geothermal energy;**

2       (B) Is located on the customer-generator's premises;

3       (C) Can operate in parallel with an electric utility's existing transmission and distribution fa-  
4       cilities; and

5       (D) Is intended primarily to offset part or all of the customer-generator's requirements for elec-  
6       tricity.

7       (2) An electric utility that offers residential and commercial electric service:

8       (a) Shall allow net metering facilities to be interconnected using a standard meter that is ca-  
9       pable of registering the flow of electricity in two directions.

10      (b) May at its own expense install one or more additional meters to monitor the flow of elec-  
11      tricity in each direction.

12      (c) May not charge a customer-generator a fee or charge that would increase the customer-  
13      generator's minimum monthly charge to an amount greater than that of other customers in the same  
14      rate class as the customer-generator. However, the Public Utility Commission, for a public utility,  
15      or the governing body, for a municipal electric utility, electric cooperative or people's utility dis-  
16      trict, may authorize an electric utility to assess a greater fee or charge, of any type, if the electric  
17      utility's direct costs of interconnection and administration of the net metering outweigh the dis-  
18      tribution system, environmental and public policy benefits of allocating such costs among the elec-  
19      tric utility's entire customer base. The commission may authorize a public utility to assess a greater  
20      fee or charge under this paragraph only following notice and opportunity for public comment. The  
21      governing body of a municipal electric utility, electric cooperative or people's utility district may  
22      assess a greater fee or charge under this paragraph only following notice and opportunity for com-  
23      ment from the customers of the utility, cooperative or district.

24      (3)(a) For a customer-generator, an electric utility shall measure the net electricity produced or  
25      consumed during the billing period in accordance with normal metering practices.

26      (b) If an electric utility supplies a customer-generator more electricity than the customer-  
27      generator feeds back to the electric utility during a billing period, the electric utility shall charge  
28      the customer-generator for the net electricity that the electric utility supplied.

29      (c) Except as provided in paragraph (d) of this subsection, if a customer-generator feeds back to  
30      an electric utility more electricity than the electric utility supplies the customer-generator during  
31      a billing period, the electric utility may charge the minimum monthly charge described in subsection  
32      (2) of this section but must credit the customer-generator for the excess kilowatt-hours generated  
33      during the billing period. An electric utility may value the excess kilowatt-hours at the avoided cost  
34      of the utility, as determined by the commission or the appropriate governing body. An electric utility  
35      that values the excess kilowatt-hours at the avoided cost shall bear the cost of measuring the excess  
36      kilowatt-hours, issuing payments and billing for the excess hours. The electric utility also shall bear  
37      the cost of providing and installing additional metering to measure the reverse flow of electricity.

38      (d) For the billing cycle ending in March of each year, or on such other date as agreed to by  
39      the electric utility and the customer-generator, any remaining unused kilowatt-hour credit accumu-  
40      lated during the previous year shall be granted to the electric utility for distribution to customers  
41      enrolled in the electric utility's low-income assistance programs, credited to the customer-generator  
42      or dedicated for other use as determined by the commission, for a public utility, or the governing  
43      body, for a municipal electric utility, electric cooperative or people's utility district, following notice  
44      and opportunity for public comment.

45      (4)(a) A net metering facility shall meet all applicable safety and performance standards estab-

1 lished in the state building code. The standards shall be consistent with the applicable standards  
 2 established by the National Electrical Code, the Institute of Electrical and Electronics Engineers  
 3 and Underwriters Laboratories or other similarly accredited laboratory.

4 (b) Following notice and opportunity for public comment, the commission, for a public utility,  
 5 or the governing body, for a municipal electric utility, electric cooperative or people's utility dis-  
 6 trict, may adopt additional control and testing requirements for customer-generators to protect  
 7 public safety or system reliability.

8 (c) An electric utility may not require a customer-generator whose net metering facility meets  
 9 the standards in paragraphs (a) and (b) of this subsection to comply with additional safety or per-  
 10 formance standards, perform or pay for additional tests or purchase additional liability insurance.  
 11 However, an electric utility shall not be liable directly or indirectly for permitting or continuing to  
 12 allow an attachment of a net metering facility, or for the acts or omissions of the customer-  
 13 generator that cause loss or injury, including death, to any third party.

14 (5) Nothing in this section is intended to prevent an electric utility from offering, or a  
 15 customer-generator from accepting, products or services related to the customer-generator's net  
 16 metering facility that are different from the net metering services described in this section.

17 (6) The commission, for a public utility, or the governing body, for a municipal electric utility,  
 18 electric cooperative or people's utility district, may not limit the cumulative generating capacity of  
 19 solar, wind, **geothermal**, fuel cell and microhydroelectric net metering systems to less than one-half  
 20 of one percent of a utility's, cooperative's or district's historic single-hour peak load. After a cumu-  
 21 lative limit of one-half of one percent has been reached, the obligation of a public utility, municipal  
 22 electric utility, electric cooperative or people's utility district to offer net metering to a new  
 23 customer-generator may be limited by the commission or governing body in order to balance the  
 24 interests of retail customers. When limiting net metering obligations under this subsection, the  
 25 commission or the governing body shall consider the environmental and other public policy benefits  
 26 of net metering systems. The commission may limit net metering obligations under this subsection  
 27 only following notice and opportunity for public comment. The governing body of a municipal elec-  
 28 tric utility, electric cooperative or people's utility district may limit net metering obligations under  
 29 this subsection only following notice and opportunity for comment from the customers of the utility,  
 30 cooperative or district.

31 (7) The commission or the governing body may adopt rules or ordinances to ensure that the  
 32 obligations and costs associated with net metering apply to all power suppliers within the service  
 33 territory of a public utility, municipal electric utility, electric cooperative or people's utility district.

34 (8) This section applies only to net metering facilities that have a generating capacity of 25  
 35 kilowatts or less, except that the commission by rule may provide for a higher limit for customers  
 36 of a public utility.

37 (9) Notwithstanding subsections (2) to (8) of this section, an electric utility serving fewer than  
 38 25,000 customers in Oregon that has its headquarters located in another state and offers net me-  
 39 tering services or a substantial equivalent offset against retail sales in that state shall be deemed  
 40 to be in compliance with this section if the electric utility offers net metering services to its cus-  
 41 tomers in Oregon in accordance with tariffs, schedules and other regulations promulgated by the  
 42 appropriate authority in the state where the electric utility's headquarters are located.

43 **SECTION 6. Section 7 of this 2013 Act is added to and made a part of ORS 757.600 to**  
 44 **757.689.**

45 **SECTION 7. If an electric company or Oregon Community Power collects the public**

1 **purpose charge described in ORS 757.612, the electric company or Oregon Community Power**  
2 **shall establish a process by which an individual who is a residential electricity consumer and**  
3 **who provides proof of receiving financial assistance from the state or federal government**  
4 **may request the electric company or Oregon Community Power to no longer impose the**  
5 **public purpose charge on the individual. If such an individual makes a request under this**  
6 **section, the electric company or Oregon Community Power may not impose the public pur-**  
7 **pose charge on the individual.**

8 **SECTION 8. This 2013 Act takes effect on the 91st day after the date on which the 2013**  
9 **regular session of the Seventy-seventh Legislative Assembly adjourns sine die.**

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