

House Bill 3176

Sponsored by COMMITTEE ON REVENUE

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 fee on fossil fuel or fossil fuel-generated electricity to be paid by vendors. Directs Public Utility Commission to calculate vendors' carbon emissions rate and provide assessments to vendors.

Establishes Pollution Refund Credit Trust Fund.

Distributes moneys collected from fee to personal income taxpayers and their dependents in equal shares.

Appropriates moneys from General Fund to Department of Revenue and commission for purpose of funding first year of administration of fee.

Applies to fossil fuels sold to consumers or used to produce electricity on or after January 1, 2016.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to climate protection; prescribing an effective date; and providing for revenue raising that
3 requires approval by a three-fifths majority.

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

5 **SECTION 1. Sections 2 to 7 of this 2015 Act shall be known and may be cited as the**
6 **Oregon Climate Protection Act.**

7 **SECTION 2. The Legislative Assembly finds that:**

8 (1) **Enacting the provisions proposed in sections 2 to 7 of this 2015 Act will benefit the**
9 **economy, human health and the environment by correcting market distortions, reducing**
10 **greenhouse gas pollutants and reducing Oregon's dependence on imported natural resources.**

11 (2) **Phased-in carbon fees on greenhouse gas emissions will:**

12 (a) **Be the most efficient, transparent and enforceable mechanism to drive an effective**
13 **and fair transition to a domestic energy economy;**

14 (b) **Stimulate investment in alternative energy technologies; and**

15 (c) **Provide all businesses powerful incentives to increase energy efficiency and reduce**
16 **carbon footprints in order to remain competitive.**

17 (3) **The distribution of equal credits or refunds to every taxpayer and dependent in this**
18 **state will help ensure that families and individuals can afford the energy they need during**
19 **the transition to a greenhouse gas-free economy.**

20 **SECTION 3. As used in sections 2 to 7 of this 2015 Act:**

21 (1) **"Bulk transfer" means any change in ownership of fuel contained in a terminal stor-**
22 **age facility or any physical movement of fuel between terminal storage facilities by pipeline**
23 **or marine transport.**

24 (2) **"First sale, use or distribution" means the first withdrawal, other than by bulk**
25 **transfer, of fuel from terminal storage facilities for sale, use or distribution in this state.**

26 **"First sale, use or distribution" also means the first sale, use or distribution of motor vehicle**

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 fuel or aircraft fuel after import into this state if the motor vehicle fuel or aircraft fuel is
2 delivered other than to the terminal storage facilities of a licensed dealer.

3 (3) "Fossil fuel" means coal, natural gas, petroleum products and any other product used
4 for fuel that contains carbon and emits carbon dioxide when combusted. "Fossil fuel" does
5 not include any product used for fuel that was embedded with chemical energy fewer than
6 1,000 years ago.

7 (4) "Fossil fuel-generated electricity" means electric energy generated by combustion of
8 fossils fuels that release carbon emissions into the atmosphere.

9 (5) "Fuel supplier" means a person that sells fossil fuel to consumers.

10 (6) "Liquid fuel" includes aviation gas, butane, gasoline, jet fuel, kerosene, diesel fuel and
11 propane.

12 (7) "Utility" means a public utility operating under ORS chapter 757, a people's utility
13 district operating under ORS chapter 261, a municipal utility operating under ORS chapter
14 225 or any other entity that supplies fossil fuel-generated electricity to consumers.

15 (8) "Vendor" includes utilities, energy service providers and wholesalers.

16 **SECTION 4.** (1) A fee is imposed on all fossil fuels and fossil fuel-generated electricity
17 at the equivalent rate of \$30 per metric ton of carbon dioxide emissions. Fees shall be col-
18 lected at the first sale, use or distribution of each unit of fuel or each carbon emission.

19 (2) The fee for liquid fuel shall be collected at the first point that retailers purchase
20 wholesale quantities in this state.

21 (3) Fees for fossil fuel-generated electricity shall be paid by all utilities, energy service
22 providers and any other vendor of electricity inside this state.

23 (4) If a fee is collected from a wholesaler of electricity in this state, the wholesaler's
24 customers may not be assessed a second fee when they sell to their own customers.

25 (5) On January 1 of each year, beginning in 2017, the fees imposed under this section shall
26 be annually increased as follows:

27 (a) The fee shall be increased by \$10 per ton of carbon dioxide emissions; and

28 (b) The Department of Revenue shall additionally adjust the fee according to the cost-
29 of-living adjustment for the calendar year. The department shall make the adjustment by
30 multiplying the increased rate specified in paragraph (a) of this subsection by the percentage
31 (if any) by which the monthly averaged U.S. City Average Consumer Price Index for the 12
32 consecutive months ending August 31 of the prior calendar year exceeds the monthly aver-
33 aged U.S. City Average Consumer Price Index for the 12 consecutive months ending August
34 31, 2015. As used in this paragraph, "U.S. City Average Consumer Price Index" means the
35 U.S. City Average Consumer Price Index for All Urban Consumers (All Items) as published
36 by the Bureau of Labor Statistics of the United States Department of Labor.

37 (6) The fee imposed under this section does not apply to carbon-based fuel or carbon-
38 generated electricity that this state is prohibited from taxing under the Constitution or laws
39 of the United States or the Constitution or laws of the State of Oregon.

40 **SECTION 5.** (1) On or before the last day of each month, all vendors shall make a report
41 to the Public Utility Commission. The report shall include the vendor's total carbon dioxide
42 emissions for the prior month.

43 (2) All vendors of electricity shall report carbon dioxide emissions to the commission,
44 whether generated directly from that vendor's activities or by a third party selling electricity
45 to the vendor. The report shall include:

1 (a) The vendor's total carbon dioxide emissions related to generation, in metric tons, the
 2 vendor's total electricity sold to all customers, in millions of Btu, and the vendor's total
 3 electricity sold in this state, in millions of Btu.

4 (b) The vendor's total carbon dioxide emissions from any mode of electricity generation
 5 in any state.

6 (3) The commission shall exclude fees paid by utilities in compliance with sections 2 to 7
 7 of this 2015 Act from the total assessment of their costs, such that the fees cannot be used
 8 to justify an increase in consumers' bills to allow the utilities to meet their guaranteed rate
 9 of return.

10 (4) The commission shall calculate each electricity vendor's carbon emission rate, defined
 11 by the metric tons of carbon emitted divided by its total electricity generated over the
 12 month. The rate shall be multiplied by the carbon emissions allocable to this state in the
 13 ratio of carbon emissions in this state to carbon emissions everywhere.

14 (5) Fees imposed under section 4 of this 2015 Act shall be collected on an annual basis.

15 (6) On or before January 31 of each year, the Department of Revenue shall send to each
 16 fuel supplier and utility an assessment that identifies the liability of the vendor for the prior
 17 calendar year for the fee imposed under section 4 of this 2015 Act.

18 (7) On or before March 31 of each year, each fuel supplier and utility that receives an
 19 assessment under subsection (6) of this section shall pay the amount of the fee that is due
 20 to the department.

21 (8) The provisions of ORS 314.400 apply to a person who fails to file a report required
 22 under this section or fails to pay a fee at the time the fee becomes due.

23 (9) If the amount paid by the fuel supplier or utility under subsection (7) of this section
 24 exceeds the amount of fee payable, the department shall refund the amount of the excess
 25 with interest at the rate established under ORS 305.220 for payment of refunds for each
 26 month or fraction of a month from the date of payment of the excess until the date of the
 27 refund. A refund is not available to a fuel supplier or utility that fails to claim the refund
 28 within two years after the due date for the filing of the return with respect to which the
 29 claim for refund relates.

30 (10) If a fuel supplier or utility fails to pay the fee assessed against it under subsection
 31 (6) of this section, the department may enforce collection by the issuance of a distraint
 32 warrant for the collection of the delinquent amount and all penalties, interest and collection
 33 charges. The warrant shall be issued, docketed and proceeded upon in the same manner and
 34 shall have the same force and effect as is prescribed with respect to warrants for the col-
 35 lection of delinquent income taxes.

36 **SECTION 6.** (1) Moneys received by the Department of Revenue pursuant to the fee im-
 37 posed under section 4 of this 2015 Act shall be deposited in a suspense account created pur-
 38 suant to ORS 293.445. After the payment of costs for the implementation and enforcement
 39 of sections 2 to 7 of this 2015 Act and repayment of any funds borrowed to initiate imple-
 40 mentation and enforcement of sections 2 to 7 of this 2015 Act, moneys in that account shall
 41 be transferred to the Pollution Refund Credit Trust Fund established in section 7 of this 2015
 42 Act.

43 (2) On or after September 1, but not later than September 30, of each year, all but \$50
 44 million of the Pollution Refund Credit Trust Fund shall be distributed in equal shares to all
 45 persons who are:

1 (a) Taxpayers who filed an Oregon personal income tax return for the immediately pre-
2 ceding tax year; or

3 (b) Dependents, residing in this state, claimed by taxpayers who filed on Oregon personal
4 income tax return for the immediately preceding tax year.

5 (3) Distributions required under this section shall be issued in the same manner as re-
6 funds made under ORS 314.415.

7 **SECTION 7.** The Pollution Refund Credit Trust Fund is established in the State Treasury,
8 separate and distinct from the General Fund. Interest earned by the Pollution Refund Credit
9 Trust Fund shall be credited to the fund. Moneys in the fund are continuously appropriated
10 to the Department of Revenue for the payment of distributions as provided in section 6 of
11 this 2015 Act.

12 **SECTION 8.** (1) In addition to and not in lieu of any other appropriation, there is appro-
13 priated to the Department of Revenue, for the biennium beginning July 1, 2015, out of the
14 General Fund, the amount of \$_____, which may be expended for the purpose of funding
15 the first year of administration of the fee imposed under section 4 of this 2015 Act.

16 (2) In addition to and not in lieu of any other appropriation, there is appropriated to the
17 Public Utility Commission, for the biennium beginning July 1, 2015, out of the General Fund,
18 the amount of \$_____, which may be expended for the purpose of assisting the Public
19 Utility Commission in administering the first year of the fee imposed under section 4 of this
20 2015 Act.

21 **SECTION 9.** Sections 2 to 7 of this 2015 Act apply to fossil fuels sold to consumers in this
22 state or used to produce electricity that is supplied to consumers in this state on or after
23 January 1, 2016.

24 **SECTION 10.** This 2015 Act takes effect on the 91st day after the date on which the 2015
25 regular session of the Seventy-eighth Legislative Assembly adjourns sine die.
26