

Senate Bill 823

Sponsored by Senator DEMBROW, Representative GREENLICK; Representative VEGA PEDERSON

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**.

Restricts vehicle idling and expands types of vehicles that are required to comply with idling restrictions.

Removes preemption on local government regulation of vehicle idling.

Permits Department of Environmental Quality to impose civil penalties for violation of vehicle idling laws.

A BILL FOR AN ACT

1
2 Relating to vehicle idling; creating new provisions; amending ORS 468.140, 825.017, 825.600, 825.601,
3 825.605 and 825.610; and repealing ORS 825.615.

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

5 **SECTION 1.** ORS 825.600 is amended to read:

6 825.600. The purpose of ORS 825.601 to 825.615 is to reduce greenhouse gas **emissions,**
7 **particulate matter and hazardous air pollutants** [*and other emissions*] from the use of
8 [*commercial*] **heavy** vehicles, as defined in ORS 825.601.

9 **SECTION 2.** ORS 825.601 is amended to read:

10 825.601. As used in ORS 825.601 to 825.615:

11 (1) "Auxiliary power unit" means any device that is installed on a [*commercial*] **heavy** vehicle
12 that provides electrical, mechanical or thermal energy to the vehicle cab, a sleeper berth, a bus
13 passenger compartment or any other vehicle cab, as an alternative to idling the primary engine.

14 (2) "Cargo temperature control unit" means any device used for controlling the temperature of
15 a cargo transport area.

16 [(3) "*Commercial vehicle*" means a commercial vehicle with a gross vehicle weight rating that is
17 greater than 10,000 pounds.]

18 (3) "**Heavy vehicle**" includes the following vehicles with a gross vehicle weight rating that
19 is **10,000 pounds or more:**

20 (a) **Commercial vehicles; and**

21 (b) **Vehicles described in ORS 825.017 (1), (9), (12), (13) and (14).**

22 (4) "Idle reduction technology" means any device or system of devices that is installed on a
23 [*commercial*] **heavy** vehicle and that is designed to provide heat, air conditioning or electricity that
24 would otherwise require the operation of the primary engine.

25 (5) "Idling" means operation of the primary engine of a [*commercial*] **heavy** vehicle while the
26 vehicle is stationary.

27 (6) "Primary engine" means an internal combustion engine attached to a [*commercial*] **heavy**
28 vehicle that provides the power to propel the vehicle into motion and maintain motion.

29 **SECTION 3.** ORS 825.605 is amended to read:

30 825.605. (1) A person commits the offense of unlawfully idling the primary engine of a [*commer-*

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 *cial*] **heavy** vehicle if the person is operating a [*commercial*] **heavy** vehicle and the person:

2 (a) Stops the [*commercial*] **heavy** vehicle; and

3 (b) Allows the engine of the [*commercial*] **heavy** vehicle to idle for more than [*five*] **three** min-
4 utes in any continuous 60-minute period.

5 (2) For purposes of this section, a person is not idling a primary engine if the person:

6 (a) Operates an auxiliary power unit, generator set or other idle reduction technology as a
7 means to heat, air condition or provide electrical power.

8 (b) Operates a cargo temperature control unit to maintain the cargo.

9 (3) A citation issued under this section may be issued to the person operating the [*commercial*]
10 **heavy** vehicle, the motor carrier as defined in ORS 825.005, or both.

11 (4) The offense described in this section, unlawfully idling the primary engine of a [*commercial*]
12 **heavy** vehicle, applies on any premises open to the public.

13 (5) The offense described in this section, unlawfully idling the primary engine of a [*commercial*]
14 **heavy** vehicle, is a Class C traffic violation.

15 **SECTION 4.** ORS 825.610 is amended to read:

16 825.610. ORS 825.605 does not apply to a [*commercial*] **heavy** vehicle if it is necessary to idle the
17 primary engine of the [*commercial*] **heavy** vehicle:

18 (1) Due to traffic, a traffic control device or mechanical difficulties over which the operator has
19 no control or at the direction of a law enforcement official or road authority.

20 (2) Due to the need to operate defrosters, heaters or air conditioners or installing equipment
21 necessary to [*comply with manufacturers' operating requirements, specifications and warranties or*
22 *with federal, state or local safety regulations*] **prevent a safety or health emergency for the**
23 **driver. This exemption does not apply during rest periods.**

24 (3) Because the [*commercial*] **heavy** vehicle is a police, fire, ambulance, public safety, military,
25 utility service or road authority vehicle, or any other vehicle being used to respond to an emergency
26 or for other public safety purposes, or being actively used for training for emergencies or public
27 safety.

28 (4) For maintenance, service, repair or diagnostic purposes or for particulate matter trap re-
29 generation.

30 (5) For a state or federal inspection to verify that all equipment is in good working order.

31 (6) To power work-related mechanical, safety, electrical or construction equipment installed on
32 the vehicle that is not used for propulsion.

33 (7) Because the [*commercial*] **heavy** vehicle is an armored vehicle and a person must remain
34 inside the vehicle to guard the contents or while the vehicle is being loaded or unloaded.

35 (8) To maintain the comfort of [*commercial*] bus passengers while passengers are on board, **for**
36 **up to 15 minutes in any continuous 60-minute period.**

37 (9) In a [*commercial*] **heavy** vehicle with a gross vehicle weight rating of more than 26,000
38 pounds, for purposes of air conditioning or heating during a rest or sleep period [*and*] **if** the outside
39 temperature is less than [*50*] **45** degrees or greater than 75 degrees Fahrenheit at any time during
40 the rest or sleep period. This subsection applies to a [*commercial*] **heavy** vehicle with a sleeper
41 berth compartment that is parked in any place that a [*commercial*] **heavy** vehicle is legally permitted
42 to park, including, but not limited to, a fleet trucking terminal, [*commercial*] **heavy** vehicle stop or
43 designated rest area. This exemption does not apply if the [*commercial*] **heavy** vehicle is:

44 (a) Equipped with an auxiliary power unit or other suitable idle reduction technology[, *if the*
45 *commercial vehicle is*];

1 **(b)** Parked at a location equipped with suitable stationary idle reduction technology that is
 2 available for use[, *or during a rest or sleep period when the commercial vehicle is parked on or adja-*
 3 *cent to a public or private educational institution offering education in all or part of kindergarten*
 4 *through grade 12, unless the outside temperature is greater than 75 degrees Fahrenheit and the auxil-*
 5 *iary power unit provides heating only, in which case the person may idle the primary engine to provide*
 6 *air conditioning.]; **or***

7 **(c) Idling within 800 feet of a:**

8 **(A) Public or private educational institution offering education in all or part of**
 9 **kindergarten through grade 12;**

10 **(B) Child care facility, as defined in ORS 329A.250;**

11 **(C) Hospital, as defined in ORS 442.015; or**

12 **(D) Nursing home.**

13 **(10) For a maximum of 30 minutes,** in a [*commercial*] **heavy** vehicle with a gross vehicle
 14 weight rating of more than 26,000 pounds, for purposes of air conditioning or heating while waiting
 15 to load or unload the [*commercial*] **heavy** vehicle or while actually loading or unloading the [*com-*
 16 *mercial*] **heavy** vehicle, [*and*] **if** the outside temperature is less than [50] **45** degrees or greater than
 17 75 degrees Fahrenheit at the time. This exemption does not apply if the [*commercial*] **heavy** vehicle
 18 is:

19 **(a)** Equipped with an auxiliary power unit or other suitable idle reduction technology, [*or if the*
 20 *commercial vehicle is*] **unless the outside temperature is greater than 75 degrees Fahrenheit**
 21 **and the auxiliary power unit provides heating only, in which case the person may idle the**
 22 **primary engine to provide air conditioning;**

23 **(b)** Parked at a location equipped with suitable stationary idle reduction technology that is
 24 available for use[, *unless the outside temperature is greater than 75 degrees Fahrenheit and the aux-*
 25 *iliary power unit provides heating only, in which case the person may idle the primary engine to pro-*
 26 *vide air conditioning.]; **or***

27 **(c) Idling within 800 feet of a:**

28 **(A) Public or private educational institution offering education in all or part of**
 29 **kindergarten through grade 12;**

30 **(B) Child care facility, as defined in ORS 329A.250;**

31 **(C) Hospital, as defined in ORS 442.015; or**

32 **(D) Nursing home.**

33 **(11) For a maximum of 30 minutes,** while waiting to load or unload [*the commercial*] **a heavy**
 34 **vehicle with a gross vehicle weight rating of more than 26,000 pounds** or while actually loading
 35 or unloading [*the commercial*] **a heavy** vehicle **with a gross vehicle weight rating of more than**
 36 **26,000 pounds,** during a single loading or unloading event.

37 **SECTION 5.** ORS 825.610, as amended by section 4 of this 2015 Act, is amended to read:

38 825.610. ORS 825.605 does not apply to a heavy vehicle if it is necessary to idle the primary
 39 engine of the heavy vehicle:

40 (1) Due to traffic, a traffic control device or mechanical difficulties over which the operator has
 41 no control or at the direction of a law enforcement official or road authority.

42 (2) Due to the need to operate defrosters, heaters or air conditioners or installing equipment
 43 necessary to prevent a safety or health emergency **for the driver**. This exemption does not apply
 44 during rest periods.

45 (3) Because the heavy vehicle is a police, fire, ambulance, public safety, military, utility service

1 or road authority vehicle, or any other vehicle being used to respond to an emergency or for other
 2 public safety purposes, or being actively used for training for emergencies or public safety.

3 (4) For maintenance, service, repair or diagnostic purposes or for particulate matter trap re-
 4 generation.

5 (5) For a state or federal inspection to verify that all equipment is in good working order.

6 (6) To power work-related mechanical, safety, electrical or construction equipment installed on
 7 the vehicle that is not used for propulsion.

8 (7) Because the heavy vehicle is an armored vehicle and a person must remain inside the vehicle
 9 to guard the contents or while the vehicle is being loaded or unloaded.

10 (8) To maintain the comfort of bus passengers while passengers are on board, for up to 15 min-
 11 utes in any continuous 60-minute period.

12 *[(9) In a heavy vehicle with a gross vehicle weight rating of more than 26,000 pounds, for purposes*
 13 *of air conditioning or heating during a rest or sleep period if the outside temperature is less than 45*
 14 *degrees or greater than 75 degrees Fahrenheit at any time during the rest or sleep period. This sub-*
 15 *section applies to a heavy vehicle with a sleeper berth compartment that is parked in any place that a*
 16 *heavy vehicle is legally permitted to park, including, but not limited to, a fleet trucking terminal, heavy*
 17 *vehicle stop or designated rest area. This exemption does not apply if the heavy vehicle is:]*

18 *[(a) Equipped with an auxiliary power unit or other suitable idle reduction technology;]*

19 *[(b) Parked at a location equipped with suitable stationary idle reduction technology that is avail-*
 20 *able for use; or]*

21 *[(c) Idling within 800 feet of a:]*

22 *[(A) Public or private educational institution offering education in all or part of kindergarten*
 23 *through grade 12;]*

24 *[(B) Child care facility, as defined in ORS 329A.250;]*

25 *[(C) Hospital, as defined in ORS 442.015; or]*

26 *[(D) Nursing home.]*

27 *[(10)] (9) For a maximum of 30 minutes, in a heavy vehicle with a gross vehicle weight rating*
 28 *of more than 26,000 pounds, for purposes of air conditioning or heating while waiting to load or*
 29 *unload the heavy vehicle or while actually loading or unloading the heavy vehicle, if the outside*
 30 *temperature is less than 45 degrees or greater than 75 degrees Fahrenheit at the time. This ex-*
 31 *emption does not apply if the heavy vehicle is:*

32 (a) Equipped with an auxiliary power unit or other suitable idle reduction technology, unless the
 33 outside temperature is greater than 75 degrees Fahrenheit and the auxiliary power unit provides
 34 heating only, in which case the person may idle the primary engine to provide air conditioning;

35 (b) Parked at a location equipped with suitable stationary idle reduction technology that is
 36 available for use; or

37 (c) Idling within 800 feet of a:

38 (A) Public or private educational institution offering education in all or part of kindergarten
 39 through grade 12;

40 (B) Child care facility, as defined in ORS 329A.250;

41 (C) Hospital, as defined in ORS 442.015; or

42 (D) Nursing home.

43 *[(11)] (10) For a maximum of 30 minutes, while waiting to load or unload a heavy vehicle with*
 44 *a gross vehicle weight rating of more than 26,000 pounds or while actually loading or unloading a*
 45 *heavy vehicle with a gross vehicle weight rating of more than 26,000 pounds, during a single loading*

1 or unloading event.

2 **SECTION 6. The amendments to ORS 825.610 by section 5 of this 2015 Act become oper-**
 3 **ative on January 1, 2020.**

4 **SECTION 7.** ORS 825.017 is amended to read:

5 825.017. Except as provided in ORS 825.026, [and] 825.030 **and 825.605**, this chapter does not
 6 apply to the persons or vehicles described in this section. The exemption under this section applies
 7 to the following persons and vehicles:

8 (1) Vehicles being used by, or under contract with, any school board, district or person respon-
 9 sible for the administration of elementary or secondary school activities, and engaged exclusively
 10 in transporting students or combinations of students and other persons to or from school, to or from
 11 authorized school activities or other activities sponsored by the State Board of Higher Education,
 12 or for purposes provided under ORS 332.427. This exemption shall not be affected by the charging
 13 of a fee to cover the costs of the transportation.

14 (2) Vehicles being used in a taxicab operation if the vehicle:

15 (a) Is a passenger vehicle with a passenger seating capacity that does not exceed five;

16 (b) Carries passengers for hire where the destination and route traveled may be controlled by
 17 a passenger and the fare is calculated on the basis of any combination of an initial fee, distance
 18 traveled or waiting time; and

19 (c) Is transporting persons or property, or both, between points in Oregon.

20 (3) Vehicles being used for the transportation of property by private carrier by means of a single
 21 vehicle or combination of vehicles with a combined weight that does not exceed 8,000 pounds.

22 (4) Vehicles being used in operating implements of husbandry.

23 (5) Vehicles being used as a hearse or ambulance.

24 (6) Vehicles being used over any private road or thoroughfare.

25 (7) Vehicles being used on any road, thoroughfare or property, other than a state highway,
 26 county road or city street, for the removal of forest products as defined in ORS 321.005, or the
 27 product of forest products converted to a form other than logs at or near the harvesting site, or
 28 when used for the construction or maintenance of the road, thoroughfare or property, pursuant to
 29 a written agreement or permit authorizing the use, construction or maintenance of the road,
 30 thoroughfare or property, with:

31 (a) An agency of the United States;

32 (b) The State Board of Forestry;

33 (c) The State Forester; or

34 (d) A licensee of an agency named in this subsection.

35 (8) Vehicles being used on any county road for the removal of forest products as defined in ORS
 36 321.005, or the products of forest products converted to a form other than logs at or near the har-
 37 vesting site, if:

38 (a) The use is pursuant to a written agreement entered into with the State Board of Forestry,
 39 the State Forester or an agency of the United States, authorizing the owner of the motor vehicle
 40 to use the road and requiring the owner to pay for or to perform the construction or maintenance
 41 of the county road, including any operator of a motor vehicle retained to transport logs, poles and
 42 piling for the owners who are exempt under this section;

43 (b) The board, officer or agency that entered into the agreement or granted the permit, by con-
 44 tract with the county court or board of county commissioners, has assumed the responsibility for the
 45 construction or maintenance of the county road; and

1 (c) Copies of the agreements or permits required by this subsection are filed with the Director
2 of Transportation.

3 (9) Vehicles being used in the transportation of persons for hire if the operation:

4 (a) Is performed by a nonprofit entity;

5 (b) Is not in competition with a regular route full-service scheduled carrier of persons that is
6 subject to the provisions of this chapter or a service provided by a mass transit district formed un-
7 der ORS chapter 267;

8 (c) Is performed by use of vehicles operating in compliance with ORS 820.020 to 820.070; and

9 (d) Is approved by the Department of Transportation as complying with paragraphs (a) to (c) of
10 this subsection.

11 (10) Vehicles being used in transporting persons with disabilities, with or without their super-
12 visors or assistants, to or from rehabilitation facilities or child care services if the motor vehicle is
13 a passenger motor vehicle with a seating capacity of not more than 12 passengers. The exemption
14 provided by this subsection applies only when the motor vehicle is operated by or under contract
15 with any person responsible for the administration of rehabilitation facilities as defined in ORS
16 344.710 to 344.730 or child care services provided by a facility licensed under ORS 329A.030 and
17 329A.250 to 329A.450.

18 (11) Vehicles owned or operated by the United States or by any governmental jurisdiction within
19 the United States except when owned or operated as a carrier of property for hire.

20 (12) Vehicles owned or operated by a mass transit district created under ORS chapter 267.

21 (13) Vehicles owned or operated by, or under contract with, a person responsible for the con-
22 struction or reconstruction of a highway under contract with the Department of Transportation or
23 with an agency of the United States when operated within the immediate construction project as
24 described in the governmental agency contract during the construction period.

25 (14) Vehicles owned or operated by, or under contract with, a charitable organization when ex-
26 clusively engaged in performing transportation, either one way or round trip, necessary to the op-
27 eration of the charitable organization. As used in this subsection, "charitable organization" means
28 an organization that has no capital stock and no provision for making dividends or profits, but de-
29 rives its funds principally from public and private charity and holds them in trust for the promotion
30 of the welfare of others and not for profit. Any organization claiming an exemption under this sub-
31 section shall file an affidavit with the department stating that it is organized and operated in ac-
32 cordance with the requirements of this subsection.

33 (15) Vehicles with a maximum speed that does not exceed 35 miles per hour that are designed
34 for off-road use and that are operated on the public highways in any one calendar year a number
35 of miles that does not exceed 15 percent of the total number of miles the vehicle is operated for that
36 calendar year.

37 (16) Passenger vehicles with a passenger seating capacity that does not exceed five when used
38 in the transportation of new telephone books.

39 (17) A vehicle that is used in a limousine service operation in which the destination and route
40 traveled may be controlled by the passenger and the fare is calculated on the basis of any combi-
41 nation of initial fee, distance traveled and waiting time if the vehicle:

42 (a) Is a passenger vehicle with a passenger seating capacity that does not exceed eight;

43 (b) Carries passengers for hire between points in Oregon; and

44 (c) Operates on an irregular route basis.

45 (18) Fire trucks and rescue vehicles that are designated as emergency vehicles by the Depart-

1 ment of Transportation under ORS 801.260, while involved in emergency and related operations.

2 (19) A person who provides services related to the packing or loading of household goods if the
3 person does not:

4 (a) Provide or operate a motor vehicle for the movement of the household goods; and

5 (b) Act as an agent for any person who does provide or operate a motor vehicle for the move-
6 ment of the household goods.

7 **SECTION 8. ORS 825.615 is repealed.**

8 **SECTION 9.** ORS 468.140 is amended to read:

9 468.140. (1) In addition to any other penalty provided by law, any person who violates any of the
10 following shall incur a civil penalty for each day of violation in the amount prescribed by the
11 schedule adopted under ORS 468.130:

12 (a) The terms or conditions of any permit required or authorized by law and issued by the De-
13 partment of Environmental Quality or a regional air quality control authority.

14 (b) Any provision of ORS 164.785, 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.505 to
15 454.535, 454.605 to 454.755, [and] 783.625 to 783.640 **and 825.605** and ORS chapter 467 and ORS
16 chapters 468, 468A and 468B.

17 (c) Any rule or standard or order of the Environmental Quality Commission adopted or issued
18 pursuant to ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755
19 and 783.625 to 783.640 and ORS chapter 467 and ORS chapters 468, 468A and 468B.

20 (d) Any term or condition of a variance granted by the commission or department pursuant to
21 ORS 467.060.

22 (e) Any rule or standard or order of a regional authority adopted or issued under authority of
23 ORS 468A.135.

24 (f) The financial assurance requirement under ORS 468B.390 and 468B.485 or any rule related
25 to the financial assurance requirement under ORS 468B.390.

26 (2) Each day of violation under subsection (1) of this section constitutes a separate offense.

27 (3)(a) In addition to any other penalty provided by law, any person who intentionally or
28 negligently causes or permits the discharge of oil or hazardous material into the waters of the state
29 or intentionally or negligently fails to clean up a spill or release of oil or hazardous material into
30 the waters of the state as required by ORS 466.645 shall incur a civil penalty not to exceed the
31 amount of \$100,000 for each violation.

32 (b) In addition to any other penalty provided by law, the following persons shall incur a civil
33 penalty not to exceed the amount of \$25,000 for each day of violation:

34 (A) Any person who violates the terms or conditions of a permit authorizing waste discharge
35 into the air or waters of the state.

36 (B) Any person who violates any law, rule, order or standard in ORS 448.305, 454.010 to 454.040,
37 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755 and 783.625 to 783.640 and ORS chapters
38 468, 468A and 468B relating to air or water pollution.

39 (C) Any person who violates the provisions of a rule adopted or an order issued under ORS
40 459A.590.

41 (4) In addition to any other penalty provided by law, any person who violates the provisions of
42 ORS 468B.130 shall incur a civil penalty not to exceed the amount of \$1,000 for each day of vio-
43 lation.

44 (5) Subsection (1)(c) and (e) of this section does not apply to violations of motor vehicle emission
45 standards which are not violations of standards for control of noise emissions.

1 (6) Notwithstanding the limits of ORS 468.130 (1) and in addition to any other penalty provided
2 by law, any person who intentionally or negligently causes or permits open field burning contrary
3 to the provisions of ORS 468A.555 to 468A.620 and 468A.992, 476.380 and 478.960 shall be assessed
4 by the department a civil penalty of at least \$20 but not more than \$40 for each acre so burned.
5 Any amounts collected by the department pursuant to this subsection shall be deposited with the
6 State Treasurer to the credit of the General Fund and shall be available for general governmental
7 expense. As used in this subsection, "open field burning" does not include propane flaming of mint
8 stubble.

9 **SECTION 10. The amendments to ORS 825.605 by section 3 of this 2015 Act apply to of-**
10 **fenses that occur on or after the effective date of this 2015 Act.**

11