

# Senate Bill 824

Sponsored by Senator DEMBROW, Representatives VEGA PEDERSON, GREENLICK

## 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**.

Requires certain public improvement contracts to contain and reserve one percent of total contract price for performing repowers or retrofits of certain diesel engines used in course of performing contract. Sunsets requirement on January 1, 2028.

Beginning January 1, 2017, requires certain nonroad diesel engines to be registered with Department of Environmental Quality. Authorizes Environmental Quality Commission to adopt rules and registration fees.

Directs commission to adopt diesel emission standards by rule operative January 1, 2022. Requires commission to phase in implementation of certain standards.

Repeals state preemption of local regulation of idling by primary engines in commercial vehicles.

## A BILL FOR AN ACT

1  
2 Relating to engine emissions; creating new provisions; amending ORS 468A.795 and 468A.801; and  
3 repealing ORS 825.615.

4 Whereas Oregon ranks sixth-highest in the nation for risk to human health from diesel pollution;  
5 and

6 Whereas exposure to diesel particulate pollution causes myriad health effects, including the  
7 exacerbation of asthma symptoms and early death from heart disease and various cancers; and

8 Whereas children are especially vulnerable to the negative health effects of diesel particulate  
9 pollution because their lungs are still in the developmental phase and they breathe, on average, 50  
10 percent more air per pound of body weight than adults; and

11 Whereas the health impacts and premature deaths caused by diesel particulate pollution have  
12 an annual economic impact of more than \$3 billion in this state; and

13 Whereas 17 Oregon counties have ambient levels of diesel particulate pollution that are con-  
14 sidered harmful to health; and

15 Whereas new diesel engines and older diesel engines retrofitted with particulate filters can re-  
16 duce diesel particulates by up to 95 percent as compared to diesel particulate emissions from older,  
17 dirty diesel engines that are not retrofitted; and

18 Whereas the attrition rate of older, dirty diesel engines without retrofits is too slow to ade-  
19 quately curb emissions in a timely manner and protect public health; and

20 Whereas a strategy to shorten the timeline for conversion to the use of new diesel engines and  
21 to older diesel engines retrofitted with particulate filters requires a combination of regulations and  
22 incentives; and

23 Whereas the incorporation of California's emission standards for nonroad diesel engines into the  
24 Department of Environmental Quality's existing air quality regulations will benefit public health;  
25 and

26 Whereas the problem of diesel particulate pollution in this state is exacerbated when engines  
27 are allowed to idle unnecessarily; now, therefore,

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

2  
3 **ONE PERCENT FOR CLEAN DIESEL IN PUBLIC CONTRACTS**

4  
5 **SECTION 1.** Section 2 of this 2015 Act is added to and made a part of the Public Con-  
6 tracting Code.

7 **SECTION 2.** (1) As used in this section, “Oregon diesel engine” has the meaning given  
8 that term in ORS 468A.795.

9 (2) Except as provided in subsection (4) of this section, a public improvement contract  
10 for which federal funds from congestion mitigation and air quality grants are a source of  
11 funding must contain and reserve an amount equal to at least one percent of the total con-  
12 tract price for the purpose of performing qualifying repowers or retrofits as described in ORS  
13 468A.797 and 468A.799 of Oregon diesel engines that will be used in the course of performing  
14 the contract.

15 (3) Any amount reserved in a public improvement contract under subsection (2) of this  
16 section that remains unexpended after completion of and final payment for the public im-  
17 provement contract shall be deposited in the Clean Diesel Engine Fund established under  
18 ORS 468A.801.

19 (4)(a) The Environmental Quality Commission may adopt by rule standards for minimum  
20 contract specifications relating to the use of Oregon diesel engines in the course of per-  
21 forming the contract.

22 (b) As an alternative to meeting the requirements of subsections (2) and (3) of this sec-  
23 tion, a public improvement contract subject to subsection (2) of this section may include the  
24 minimum contract specifications adopted by the commission by rule under this subsection.

25 **SECTION 3.** Section 2 of this 2015 Act applies to public improvement contracts advertised  
26 or solicited on or after January 1, 2016, or for contracts that are not advertised or solicited,  
27 contracts that a contracting agency enters into on or after January 1, 2016.

28 **SECTION 4.** Section 2 of this 2015 Act is amended to read:

29 **Sec. 2.** (1) As used in this section[,]:

30 (a) “Local contracting agency” does not include small special districts as defined by rule  
31 by the Environmental Quality Commission.

32 (b) “Oregon diesel engine” has the meaning given that term in ORS 468A.795.

33 (2) Except as provided in subsection (4) of this section, a public improvement contract [*for which*  
34 *federal funds from congestion mitigation and air quality grants are a source of funding*] must contain  
35 and reserve an amount equal to at least one percent of the total contract price for the purpose of  
36 performing qualifying repowers or retrofits as described in ORS 468A.797 and 468A.799 of Oregon  
37 diesel engines that will be used in the course of performing the contract[.] **if the contract is for:**

38 (a) **A public improvement for which federal funds from congestion mitigation and air**  
39 **quality grants are a source of funding; or**

40 (b) **A public improvement project by a state contracting agency or a local contracting**  
41 **agency with a value of \$2 million or more and for which state funds constitute 30 percent**  
42 **or more of the value of the contract.**

43 (3) Any amount reserved in a public improvement contract under subsection (2) of this section  
44 that remains unexpended after completion of and final payment for the public improvement contract  
45 shall be deposited in the Clean Diesel Engine Fund established under ORS 468A.801.

1 (4)(a) The Environmental Quality Commission may adopt by rule standards for minimum contract  
 2 specifications relating to the use of Oregon diesel engines in the course of performing the contract.

3 (b) As an alternative to meeting the requirements of subsections (2) and (3) of this section, a  
 4 public improvement contract subject to subsection (2) of this section may include the minimum  
 5 contract specifications adopted by the commission by rule under this subsection.

6 **SECTION 5. (1) The amendments to section 2 of this 2015 Act by section 4 of this 2015**  
 7 **Act become operative on January 1, 2018.**

8 **(2) The amendments to section 2 of this 2015 Act by section 4 of this 2015 Act apply to:**

9 **(a) Public improvement contracts advertised or solicited on or after January 1, 2018, or**  
 10 **if the contracts are not advertised or solicited, to contracts entered into on or after January**  
 11 **1, 2018.**

12 **(b) Local contracting agencies located in an area designated by the United States Office**  
 13 **of Management and Budget as a metropolitan statistical area with a population of 10,000 or**  
 14 **more.**

15 **SECTION 6. Section 2 of this 2015 Act is repealed on January 1, 2028.**

16  
 17 **NONROAD DIESEL ENGINE**  
 18 **REGISTRATION REQUIREMENT**  
 19

20 **SECTION 7.** ORS 468A.795 is amended to read:

21 468A.795. As used in ORS 468A.795 to 468A.803 and sections 11 to 16, chapter 855, Oregon Laws  
 22 2007:

23 (1) “Combined weight” has the meaning given that term in ORS 825.005.

24 (2) “Cost-effectiveness threshold” means the cost, in dollars, per ton of diesel particulate matter  
 25 reduced, as established by rule of the Environmental Quality Commission.

26 (3) “Heavy-duty truck” means a motor vehicle or combination of vehicles operated as a unit that  
 27 has a combined weight that is greater than 26,000 pounds.

28 (4) “Incremental cost” means the cost of a qualifying repower or retrofit less a baseline cost  
 29 that would otherwise be incurred in the normal course of business.

30 (5) “Medium-duty truck” means a motor vehicle or combination of vehicles operated as a unit  
 31 that has a combined weight that is greater than 14,000 pounds but less than or equal to 26,000  
 32 pounds.

33 (6) “Motor vehicle” has the meaning given that term in ORS 825.005.

34 **(7) “Nonroad diesel engine” means a diesel engine of 25 horsepower or more that was not**  
 35 **designed primarily to propel a motor vehicle on the public highways of this state.**

36 [(7)] **(8) “Nonroad Oregon diesel engine” means any Oregon diesel engine that was not designed**  
 37 **primarily to propel a motor vehicle on public highways of this state.**

38 [(8)] **(9) “Oregon diesel engine” means [an] a diesel engine at least 50 percent of the use of**  
 39 **which, as measured by miles driven or hours operated, will occur in Oregon for the three years**  
 40 **following the repowering or retrofitting of the engine.**

41 [(9)] **(10) “Oregon diesel truck engine” means a diesel engine in a truck at least 50 percent of**  
 42 **the use of which, as measured by miles driven or hours operated, has occurred in Oregon for the**  
 43 **two years preceding the scrapping of the engine.**

44 [(10)] **(11) “Public highway” has the meaning given that term in ORS 825.005.**

45 [(11)] **(12) “Repower” means to scrap an old diesel engine and replace it with a new engine, a**

1 used engine or a remanufactured engine, or with electric motors, drives or fuel cells, with a mini-  
2 mum useful life of seven years.

3 [(12)] (13) "Retrofit" means to equip a diesel engine with new emissions-reducing parts or tech-  
4 nology after the manufacture of the original engine. A retrofit must use the greatest degree of  
5 emissions reduction available for the particular application of the equipment retrofitted that meets  
6 the cost-effectiveness threshold.

7 [(13)] (14) "Scrap" means to destroy and render inoperable.

8 [(14)] (15) "Truck" means a motor vehicle or combination of vehicles operated as a unit that has  
9 a combined weight that is greater than 14,000 pounds.

10 **SECTION 8.** ORS 468A.795, as amended by section 6a, chapter 855, Oregon Laws 2007, is  
11 amended to read:

12 468A.795. As used in ORS 468A.795 to 468A.803:

13 (1) "Combined weight" has the meaning given that term in ORS 825.005.

14 (2) "Cost-effectiveness threshold" means the cost, in dollars, per ton of diesel particulate matter  
15 reduced, as established by rule of the Environmental Quality Commission.

16 (3) "Heavy-duty truck" means a motor vehicle or combination of vehicles operated as a unit that  
17 has a combined weight that is greater than 26,000 pounds.

18 (4) "Incremental cost" means the cost of a qualifying repower or retrofit less a baseline cost  
19 that would otherwise be incurred in the normal course of business.

20 (5) "Medium-duty truck" means a motor vehicle or combination of vehicles operated as a unit  
21 that has a combined weight that is greater than 14,000 pounds but less than or equal to 26,000  
22 pounds.

23 (6) "Motor vehicle" has the meaning given that term in ORS 825.005.

24 (7) **"Nonroad diesel engine" means a diesel engine of 25 horsepower or more that was not**  
25 **designed primarily to propel a motor vehicle on the public highways of this state.**

26 [(7)] (8) "Nonroad Oregon diesel engine" means any Oregon diesel engine that was not designed  
27 primarily to propel a motor vehicle on public highways of this state.

28 [(8)] (9) "Oregon diesel engine" means [an] a diesel engine at least 50 percent of the use of  
29 which, as measured by miles driven or hours operated, will occur in Oregon for the three years  
30 following the repowering or retrofitting of the engine.

31 [(9)] (10) "Oregon diesel truck engine" means a diesel engine in a truck at least 50 percent of  
32 the use of which, as measured by miles driven or hours operated, has occurred in Oregon for the  
33 two years preceding the scrapping of the engine.

34 [(10)] (11) "Public highway" has the meaning given that term in ORS 825.005.

35 [(11)] (12) "Repower" means to scrap an old diesel engine and replace it with a new engine, a  
36 used engine or a remanufactured engine, or with electric motors, drives or fuel cells, with a mini-  
37 mum useful life of seven years.

38 [(12)] (13) "Retrofit" means to equip a diesel engine with new emissions-reducing parts or tech-  
39 nology after the manufacture of the original engine. A retrofit must use the greatest degree of  
40 emissions reduction available for the particular application of the equipment retrofitted that meets  
41 the cost-effectiveness threshold.

42 [(13)] (14) "Scrap" means to destroy and render inoperable.

43 [(14)] (15) "Truck" means a motor vehicle or combination of vehicles operated as a unit that has  
44 a combined weight that is greater than 14,000 pounds.

45 **SECTION 9. Sections 10 to 12 of this 2015 Act are added to and made a part of ORS**

1 468A.795 to 468A.803.

2 **SECTION 10.** (1) A person may not operate a nonroad diesel engine in this state without  
3 first registering the engine with the Department of Environmental Quality under section 11  
4 of this 2015 Act.

5 (2) This section does not apply to:

6 (a) Motor vehicles registered as farm vehicles under the provisions of ORS 805.300.

7 (b) Farm tractors, as defined in ORS 801.265.

8 (c) Implements of husbandry, as defined in ORS 801.310.

9 **SECTION 11.** (1) The Department of Environmental Quality shall register and provide a  
10 registration renewal for an increment of one year or less for a nonroad diesel engine owned  
11 or operated by a person that pays the fee for registration or renewal described in section 12  
12 of this 2015 Act.

13 (2) The department may appoint agents to register nonroad diesel engines.

14 (3) Agents shall register nonroad diesel engines in accordance with procedures prescribed  
15 by the Environmental Quality Commission by rule and shall charge and collect the registra-  
16 tion fees prescribed by law.

17 (4)(a) The department may authorize an agent other than a department employee to  
18 charge a service fee of \$2, in addition to the registration fee, for the registration service  
19 performed by the agent.

20 (b) The department shall supply the agents with registration forms for nonroad diesel  
21 engines.

22 (5) The department shall collect fees under this section and shall pay all moneys from  
23 the fees into the State Treasury for deposit in the Clean Diesel Engine Fund, to be used only  
24 for issuing grants and loans to owners and operators of nonroad Oregon diesel engines as  
25 provided in ORS 468A.803.

26 **SECTION 12.** The Environmental Quality Commission shall adopt rules for the imple-  
27 mentation and administration of sections 10 and 11 of this 2015 Act, including a schedule of  
28 fees for the issuance and renewal of nonroad diesel engine registrations.

29 **SECTION 13.** ORS 468A.801 is amended to read:

30 468A.801. (1) The Clean Diesel Engine Fund is established in the State Treasury separate and  
31 distinct from the General Fund. Interest earned by the Clean Diesel Engine Fund shall be credited  
32 to the fund. The moneys in the fund are continuously appropriated to the Department of Environ-  
33 mental Quality to be used for the purposes described in ORS 468A.803.

34 (2) The Clean Diesel Engine Fund consists of:

35 (a) Funds appropriated by the Legislative Assembly;

36 (b) Grants provided by the federal government pursuant to the federal Clean Air Act, 42 U.S.C.  
37 7401 et seq., or other federal laws; *[and]*

38 (c) Moneys from fees for nonroad diesel engine registrations collected under section 11  
39 of this 2015 Act;

40 (d) Moneys deposited in the fund under section 2 of this 2015 Act; and

41 *[(c)]* (e) Any other revenues derived from gifts or grants given to the state for the purpose of  
42 providing financial assistance to owners or operators of diesel engines for the purpose of repower-  
43 ing, retrofitting or scrapping diesel engines to reduce diesel engine emissions.

44 **SECTION 14.** (1) Sections 9 to 12 of this 2015 Act and the amendments to ORS 468A.795  
45 and 468A.801 by sections 7 and 13 of this 2015 Act become operative January 1, 2017.

1       **(2) The Environmental Quality Commission and the Department of Environmental Qual-**  
 2 **ity may take any action before the operative date specified in subsection (1) of this section**  
 3 **that is necessary for the commission and the department to exercise, on and after the op-**  
 4 **erative date specified in subsection (1) of this section, all of the duties, functions and powers**  
 5 **conferred on the commission and the department by sections 9 to 12 of this 2015 Act and the**  
 6 **amendments to ORS 468A.795 and 468A.801 by sections 7 and 13 of this 2015 Act.**

7  
 8                                   **EMISSION REQUIREMENTS FOR DIESEL ENGINES**

9  
 10       **SECTION 15. Section 16 of this 2015 Act is added to and made a part of ORS 468A.795 to**  
 11 **468A.803.**

12       **SECTION 16. (1) The Environmental Quality Commission shall adopt by rule diesel**  
 13 **emission standards.**

14       **(2) Rules adopted by the commission under this section must include, but need not be**  
 15 **limited to:**

16       **(a) A schedule to phase in implementation of a requirement that all heavy-duty trucks**  
 17 **operated in this state must be:**

18       **(A) Retrofitted with 2007 equivalent engines and 2007 fine particulate matter capture**  
 19 **technology;**

20       **(B) An alternative fuel vehicle as defined in ORS 469.960; or**

21       **(C) Retrofitted with a level 3 emission control as verified by the United States Environ-**  
 22 **mental Protection Agency or the California Air Resources Board; and**

23       **(b) A schedule to phase in implementation of emission standards for nonroad diesel en-**  
 24 **gines.**

25       **(3) The department shall adopt by rule a program for providing incentives to owners and**  
 26 **operators of heavy-duty trucks to meet the requirements adopted under paragraph (a) of this**  
 27 **subsection. The program must prioritize the provision of incentives:**

28       **(a) For the retrofit or replacement of school buses;**

29       **(b) To disadvantaged, minority, women and emerging small businesses certified under**  
 30 **ORS 200.055; and**

31       **(c) To retrofit or replace heavy-duty trucks that, as measured by miles driven or hours**  
 32 **operated, are used primarily in areas that the Department of Environmental Quality has**  
 33 **determined are:**

34       **(A) Nonattainment areas under this state's air pollution control program; or**

35       **(B) Are attainment areas projected by the department to exceed air standards within five**  
 36 **years.**

37       **(4) In adopting emission standards for nonroad diesel engines under this section, the**  
 38 **commission shall consider adopting standards that are at least equivalent to those adopted**  
 39 **by the California Air Resources Board for diesel emissions from new and in-use off-road**  
 40 **diesel engines.**

41       **(5)(a) The provisions of this section do not apply to:**

42       **(A) Motor vehicles registered as farm vehicles under the provisions of ORS 805.300.**

43       **(B) Farm tractors, as defined in ORS 801.265.**

44       **(C) Implements of husbandry, as defined in ORS 801.310.**

45       **(b) The commission shall provide additional exemptions and deferrals as necessary to**

1 mitigate the costs of complying with the diesel emission standards adopted under this sec-  
2 tion.

3 **SECTION 17.** (1) Diesel emission standards adopted by rule by the Environmental Quality  
4 Commission under section 16 of this 2015 Act become operative on January 1, 2022.

5 (2) The commission may adopt rules or take any action before January 1, 2022, that is  
6 necessary for the commission to exercise all of the duties, functions and powers conferred  
7 on the commission by section 16 of this 2015 Act.

8  
9 **REPEAL OF STATE PREEMPTION OF LOCAL REGULATION**  
10 **OF IDLING BY PRIMARY ENGINES**  
11 **IN COMMERCIAL VEHICLES**

12  
13 **SECTION 18.** ORS 825.615 is repealed.

14  
15 **MISCELLANEOUS**

16  
17 **SECTION 19.** There is appropriated to the Department of Environmental Quality, for the  
18 biennium beginning July 1, 2015, out of the General Fund, the amount of \$\_\_\_\_\_ for the  
19 purpose of establishing, administering and operating the incentive program adopted by the  
20 department by rule under section 16 (3) of this 2015 Act.

21 **SECTION 20.** The unit captions used in this 2015 Act are provided only for the conven-  
22 ience of the reader and do not become part of the statutory law of this state or express any  
23 legislative intent in the enactment of this 2015 Act.