

D R A F T

SUMMARY

Adds grants and loans for replacements to permissible uses of moneys in Clean Diesel Engine Fund. Makes other modifications to provisions for grants and loans from fund for purpose of reducing emissions from diesel engines.

Authorizes State of Oregon to receive moneys pursuant to Volkswagen Environmental Mitigation Trust Agreement, deposit agreement moneys in Clean Diesel Engine Fund and use moneys to award grants for reducing emissions from diesel engines. Specifies allocation of grants from agreement moneys.

Requires Department of Environmental Quality to hire or contract with third-party organization to complete inventory of nonroad diesel engines used in Oregon. Sets forth required qualifications of third-party organization, requirements for inventory and required uses of inventory by department.

Requires completion of inventory no later than July 1, 2019.

Sunsets requirement to obtain inventory from third-party organization January 2, 2020.

Requires department to make inventory publicly available in aggregate form.

Appropriates \$_____ to department to cover costs of hiring or contracting with third-party organization for purposes of inventory.

Declares emergency, effective July 1, 2017.

A BILL FOR AN ACT

Relating to diesel; creating new provisions; amending ORS 468A.795, 468A.797, 468A.799, 468A.801 and 468A.803 and section 12, chapter 855, Oregon Laws 2007; and declaring an emergency.

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

DIESEL ENGINES

1 **SECTION 1.** ORS 468A.795 is amended to read:

2 468A.795. As used in ORS 468A.795 to 468A.803 and sections 11 to 16,
3 chapter 855, Oregon Laws 2007:

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

5 (2) “Cost-effectiveness threshold” means the cost, in dollars, per ton of
6 diesel particulate matter reduced, as established by rule of the Environ-
7 mental Quality Commission.

8 (3) **“Diesel engine” means a compression ignition engine designed**
9 **primarily to propel a motor vehicle on public highways in this state.**

10 (4) **“Environmental Mitigation Trust Agreement” means the Envi-**
11 **ronmental Mitigation Trust Agreement required by the Volkswagen**
12 **“Clean Diesel” Marketing, Sales Practices and Products Liability Liti-**
13 **gation partial consent decree dated October 25, 2016.**

14 (5) **“Equivalent equipment” means a piece of equipment that per-**
15 **forms the same function and has the equivalent horsepower to a piece**
16 **of equipment subject to a replacement.**

17 (6) **“Equivalent motor vehicle” means a motor vehicle that performs**
18 **the same function and is in the same weight class as a motor vehicle**
19 **subject to a replacement.**

20 [(3)] (7) “Heavy-duty truck” means a motor vehicle or combination of ve-
21 hicles operated as a unit that has a combined weight that is greater than
22 26,000 pounds.

23 [(4)] (8) “Incremental cost” means the cost of a qualifying repower or
24 retrofit less a baseline cost that would otherwise be incurred in the normal
25 course of business.

26 [(5)] (9) “Medium-duty truck” means a motor vehicle or combination of
27 vehicles operated as a unit that has a combined weight that is greater than
28 14,000 pounds but less than or equal to 26,000 pounds.

29 [(6)] (10) “Motor vehicle” has the meaning given that term in ORS
30 825.005.

31 [(7)] (11) “Nonroad [*Oregon*] diesel engine” means [*any Oregon diesel*] a

1 **compression ignition** engine that was not designed primarily to propel a
2 motor vehicle on public highways of this state.

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

6 [(9)] **(12)** "Oregon diesel truck engine" means a diesel engine in a truck
7 at least 50 percent of the use of which, as measured by miles driven or hours
8 operated, has occurred in Oregon for the two years preceding the scrapping
9 of the engine.

10 [(10)] **(13)** "Public highway" has the meaning given that term in ORS
11 825.005.

12 **(14)(a) "Replacement" means:**

13 **(A) To scrap a motor vehicle powered by a diesel engine and replace**
14 **the motor vehicle with an equivalent motor vehicle; or**

15 **(B) To scrap a piece of equipment powered by a nonroad diesel en-**
16 **gine and replace the equipment with equivalent equipment.**

17 **(b) "Replacement" does not mean ordinary maintenance, repair or**
18 **replacement of a diesel engine.**

19 [(11)] **(15)** "Repower" means to scrap an old diesel engine and [*replace*]
20 **substitute** it with a new engine, a used engine or a remanufactured engine,
21 or with electric motors, drives or fuel cells, with a minimum useful life of
22 seven years.

23 [(12)] **(16)** "Retrofit" means to equip a diesel engine with new emissions-
24 reducing parts or technology after the manufacture of the original engine.
25 A retrofit must use the greatest degree of emissions reduction available for
26 the particular application of the equipment retrofitted that meets the cost-
27 effectiveness threshold.

28 [(13)] **(17)** "Scrap" means to destroy and render inoperable.

29 [(14)] **(18)** "Truck" means a motor vehicle or combination of vehicles op-
30 erated as a unit that has a combined weight that is greater than 14,000
31 pounds.

1 **SECTION 2.** ORS 468A.795, as amended by section 6a, chapter 855,
2 Oregon Laws 2007, is amended to read:

3 468A.795. As used in ORS 468A.795 to 468A.803:

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

5 (2) “Cost-effectiveness threshold” means the cost, in dollars, per ton of
6 diesel particulate matter reduced, as established by rule of the Environ-
7 mental Quality Commission.

8 **(3) “Diesel engine” means a compression ignition engine designed**
9 **primarily to propel a motor vehicle on public highways in this state.**

10 **(4) “Environmental Mitigation Trust Agreement” means the Envi-**
11 **ronmental Mitigation Trust Agreement required by the Volkswagen**
12 **“Clean Diesel” Marketing, Sales Practices and Products Liability Liti-**
13 **gation partial consent decree dated October 25, 2016.**

14 **(5) “Equivalent equipment” means a piece of equipment that per-**
15 **forms the same function and has the equivalent horsepower to a piece**
16 **of equipment subject to a replacement.**

17 **(6) “Equivalent motor vehicle” means a motor vehicle that performs**
18 **the same function and is in the same weight class as a motor vehicle**
19 **subject to a replacement.**

20 [(3)] **(7) “Heavy-duty truck” means a motor vehicle or combination of ve-**
21 **hicles operated as a unit that has a combined weight that is greater than**
22 **26,000 pounds.**

23 [(4)] **(8) “Incremental cost” means the cost of a qualifying repower or**
24 **retrofit less a baseline cost that would otherwise be incurred in the normal**
25 **course of business.**

26 [(5)] **(9) “Medium-duty truck” means a motor vehicle or combination of**
27 **vehicles operated as a unit that has a combined weight that is greater than**
28 **14,000 pounds but less than or equal to 26,000 pounds.**

29 [(6)] **(10) “Motor vehicle” has the meaning given that term in ORS**
30 **825.005.**

31 [(7)] **(11) “Nonroad [Oregon] diesel engine” means [any Oregon diesel] a**

1 **compression ignition** engine that was not designed primarily to propel a
2 motor vehicle on public highways of this state.

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

6 [(9)] **(12)** "Oregon diesel truck engine" means a diesel engine in a truck
7 at least 50 percent of the use of which, as measured by miles driven or hours
8 operated, has occurred in Oregon for the two years preceding the scrapping
9 of the engine.

10 [(10)] **(13)** "Public highway" has the meaning given that term in ORS
11 825.005.

12 **(14)(a) "Replacement" means:**

13 **(A) To scrap a motor vehicle powered by a diesel engine and replace**
14 **the motor vehicle with an equivalent motor vehicle; or**

15 **(B) To scrap a piece of equipment powered by a nonroad diesel en-**
16 **gine and replace the equipment with equivalent equipment.**

17 **(b) "Replacement" does not mean ordinary maintenance, repair or**
18 **replacement of a diesel engine.**

19 [(11)] **(15)** "Repower" means to scrap an old diesel engine and [*replace*]
20 **substitute** it with a new engine, a used engine or a remanufactured engine,
21 or with electric motors, drives or fuel cells, with a minimum useful life of
22 seven years.

23 [(12)] **(16)** "Retrofit" means to equip a diesel engine with new emissions-
24 reducing parts or technology after the manufacture of the original engine.
25 A retrofit must use the greatest degree of emissions reduction available for
26 the particular application of the equipment retrofitted that meets the cost-
27 effectiveness threshold.

28 [(13)] **(17)** "Scrap" means to destroy and render inoperable.

29 [(14)] **(18)** "Truck" means a motor vehicle or combination of vehicles op-
30 erated as a unit that has a combined weight that is greater than 14,000
31 pounds.

1 **SECTION 3.** ORS 468A.797 is amended to read:

2 468A.797. (1) The Environmental Quality Commission by rule shall estab-
3 lish standards related to the certified cost necessary to perform a qualifying
4 **replacement**, repower or retrofit, including but not limited to rules estab-
5 lishing the certified cost for purposes of the tax credit established in section
6 12, chapter 855, Oregon Laws 2007.

7 (2) For the purposes of subsection (1) of this section, certified cost:

8 (a) May not exceed the incremental cost of labor and hardware that the
9 Department of Environmental Quality finds necessary to perform a qualify-
10 ing **replacement**, repower or retrofit;

11 (b) Does not include the cost of any portion of a **replacement**, repower
12 or retrofit undertaken to comply with any applicable local, state or federal
13 pollution or emissions law or for ordinary maintenance, repair or replace-
14 ment of a diesel engine; and

15 (c) May not exceed the cost-effectiveness threshold.

16 **SECTION 4.** ORS 468A.797, as amended by section 7a, chapter 855,
17 Oregon Laws 2007, is amended to read:

18 468A.797. (1) The Environmental Quality Commission by rule shall estab-
19 lish standards related to the certified cost necessary to perform a qualifying
20 **replacement**, repower or retrofit.

21 (2) For the purposes of subsection (1) of this section, certified cost:

22 (a) May not exceed the incremental cost of labor and hardware that the
23 Department of Environmental Quality finds necessary to perform a qualify-
24 ing **replacement**, repower or retrofit;

25 (b) Does not include the cost of any portion of a **replacement**, repower
26 or retrofit undertaken to comply with any applicable local, state or federal
27 pollution or emissions law or for ordinary maintenance, repair or replace-
28 ment of a diesel engine; and

29 (c) May not exceed the cost-effectiveness threshold.

30 **SECTION 5.** ORS 468A.799 is amended to read:

31 468A.799. (1) The Environmental Quality Commission by rule shall estab-

1 lish standards for *[the qualifying repower of a nonroad Oregon diesel engine*
2 *or retrofit of an Oregon diesel engine,]* **qualifying replacements, repowers**
3 **and retrofits**, including but not limited to rules establishing repower or
4 retrofit qualifications for purposes of the tax credit established in section
5 12, chapter 855, Oregon Laws 2007.

6 (2) The standards adopted by the commission under this section must
7 *[include]* **require, at a minimum:**

8 *[(a) A requirement for the reduction of diesel particulate matter emissions*
9 *by at least 25 percent compared with the baseline emissions for the relevant*
10 *engine year and application;]*

11 **(a) For the qualifying replacement of a motor vehicle powered by**
12 **a diesel engine, that:**

13 **(A) The motor vehicle to be scrapped has at least three years of**
14 **remaining useful life; and**

15 **(B) The engine model year of the equivalent motor vehicle is 2010**
16 **or newer.**

17 **(b) For the qualifying replacement of a piece of equipment powered**
18 **by a nonroad diesel engine, that:**

19 **(A) The nonroad piece of equipment to be scrapped has at least**
20 **three years of remaining useful life; and**

21 **(B) The equivalent equipment is powered by a nonroad diesel engine**
22 **that meets or exceeds the United States Environmental Protection**
23 **Agency Tier 4 standards for nonroad diesel exhaust emissions.**

24 **(c) For the qualifying repower of a nonroad diesel engine, that the**
25 **repower will be accomplished using a higher tier engine than the en-**
26 **gine to be scrapped, based on the United States Environmental Pro-**
27 **tection Agency tier standards for nonroad diesel exhaust emissions.**

28 **(d) For the qualifying retrofit of a diesel engine, a resulting re-**
29 **duction of diesel particulate matter emissions by at least 85 percent**
30 **when compared with the baseline emissions for the relevant engine**
31 **year and application.**

1 [(b)] **(e) That** a list of technologies approved as qualifying repowers or
2 retrofits that have been verified by the United States Environmental Pro-
3 tection Agency or the California Air Resources Board[; and] **is included in**
4 **the standards.**

5 [(c)] **(3)** [A requirement that] A qualifying **replacement**, repower or
6 retrofit [does] **may** not include the **replacement**, repower or retrofit of a
7 **motor vehicle, piece of equipment** or engine for which a grant, loan or tax
8 credit under ORS 468A.803 or section 12, chapter 855, Oregon Laws 2007, has
9 **previously** been awarded or allowed, unless the **replacement**, repower or
10 retrofit will reduce emissions further than the **replacement**, repower or
11 retrofit funded by the **previous** grant, loan or tax credit.

12 **SECTION 6.** ORS 468A.799, as amended by section 8a, chapter 855,
13 Oregon Laws 2007, is amended to read:

14 468A.799. (1) The Environmental Quality Commission by rule shall estab-
15 lish standards for [*the qualifying repower of a nonroad Oregon diesel engine*
16 *or retrofit of an Oregon diesel engine*] **qualifying replacements, repowers**
17 **and retrofits.**

18 (2) The standards adopted by the commission under this section must
19 [*include*] **require, at a minimum:**

20 [(a) A requirement for the reduction of diesel particulate matter emissions
21 by at least 25 percent compared with the baseline emissions for the relevant
22 engine year and application;]

23 **(a) For the qualifying replacement of a motor vehicle powered by**
24 **a diesel engine, that:**

25 **(A) The motor vehicle to be scrapped has at least three years of**
26 **remaining useful life; and**

27 **(B) The engine model year of the equivalent motor vehicle is 2010**
28 **or newer.**

29 **(b) For the qualifying replacement of a piece of equipment powered**
30 **by a nonroad diesel engine, that:**

31 **(A) The nonroad piece of equipment to be scrapped has at least**

1 **three years of remaining useful life; and**

2 **(B) The equivalent equipment is powered by a nonroad diesel engine**
3 **that meets or exceeds the United States Environmental Protection**
4 **Agency Tier 4 standards for nonroad diesel exhaust emissions.**

5 **(c) For the qualifying repower of a nonroad diesel engine, that the**
6 **repower will be accomplished using a higher tier engine than the en-**
7 **gine to be scrapped, based on the United States Environmental Pro-**
8 **tection Agency tier standards for nonroad diesel exhaust emissions.**

9 **(d) For the qualifying retrofit of a diesel engine, a resulting re-**
10 **duction of diesel particulate matter emissions by at least 85 percent**
11 **when compared with the baseline emissions for the relevant engine**
12 **year and application.**

13 **[(b)] (e) That a list of technologies approved as qualifying repowers or**
14 **retrofits that have been verified by the United States Environmental Pro-**
15 **tection Agency or the California Air Resources Board[; and] is included in**
16 **the standards.**

17 **[(c)] (3) [A requirement that] A qualifying **replacement**, repower or**
18 **retrofit [does] **may** not include the **replacement**, repower or retrofit of a**
19 **motor vehicle, **piece of equipment** or engine for which a grant or loan**
20 **under ORS 468A.803 has **previously** been awarded or allowed, unless the**
21 **replacement, repower or retrofit will reduce emissions further than the**
22 **replacement, repower or retrofit funded by the **previous** grant or loan.**

23 **SECTION 7. ORS 468A.801 is amended to read:**

24 468A.801. (1) The Clean Diesel Engine Fund is established in the State
25 Treasury separate and distinct from the General Fund. Interest earned by
26 the Clean Diesel Engine Fund shall be credited to the fund. The moneys in
27 the fund are continuously appropriated to the Department of Environmental
28 Quality to be used for the purposes described in ORS 468A.803.

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

30 (a) Funds appropriated by the Legislative Assembly;

31 (b) Grants provided by the federal government pursuant to the federal

1 Clean Air Act, 42 U.S.C. 7401 et seq., or other federal laws; *[and]*

2 *[(c) Any other revenues derived from gifts or grants given to the state for*
3 *the purpose of providing financial assistance to owners or operators of diesel*
4 *engines for the purpose of repowering, retrofitting or scrapping diesel engines*
5 *to reduce diesel engine emissions.]*

6 **(c) Moneys paid to the State of Oregon pursuant to the Environ-**
7 **mental Mitigation Trust Agreement; and**

8 **(d) Any other moneys received by the state for the purpose of pro-**
9 **viding financial and technical assistance to owners or operators of**
10 **diesel engines for the purpose of reducing emissions from diesel en-**
11 **gines.**

12 **SECTION 8.** ORS 468A.803 is amended to read:

13 468A.803. (1) The Department of Environmental Quality shall use the
14 moneys in the Clean Diesel Engine Fund to award:

15 **(a) Grants and loans to the owners and operators of motor vehicles**
16 **powered by diesel engines, and equipment powered by nonroad diesel**
17 **engines, for up to 25 percent of the certified costs of qualifying re-**
18 **placements as described in ORS 468A.797 and 468A.799;**

19 *[(a)]* **(b) Grants and loans to the owners and operators of [Oregon] diesel**
20 **engines for up to 100 percent of the certified costs of qualifying retrofits as**
21 **described in ORS 468A.797 and 468A.799;**

22 *[(b)]* **(c) Grants and loans to the owners and operators of nonroad**
23 **[Oregon] diesel engines for up to 25 percent of the certified costs of qualify-**
24 **ing repowers as described in ORS 468A.797 and 468A.799; and**

25 *[(c)]* **(d) Grants to the owners of Oregon diesel truck engines to scrap**
26 **those engines.**

27 *[(2) Subject to and consistent with federal law, any moneys received from*
28 *the federal government that are deposited in the Clean Diesel Engine Fund*
29 *under ORS 468A.801 (2)(b) must be used for initiatives to reduce emissions*
30 *from diesel engines. Subsections (1), (3) to (5) and (7) of this section and ORS*
31 *468A.797 and 468A.799 do not apply to use of moneys in the Clean Diesel En-*

1 *gine Fund received from the federal government.]*

2 **(2) The Environmental Quality Commission by rule may set grant**
3 **or loan award rates at a percentage that is greater than a percentage**
4 **allowed under subsection (1) of this section, provided that the grant**
5 **or loan assistance will not exceed the cost-effectiveness threshold, if**
6 **the higher percentage award rate would:**

7 **(a) Benefit sensitive populations or areas with elevated concen-**
8 **trations of diesel particulate matter; or**

9 **(b) Otherwise increase participation by those categories of owners**
10 **or operators.**

11 (3) In determining the amount of a grant or loan under this section, the
12 department must reduce the incremental cost of a qualifying **replacement,**
13 repower or retrofit by the value of any existing financial incentive that di-
14 rectly reduces the cost of the qualifying **replacement,** repower or retrofit,
15 including tax credits, other grants or loans, or any other public financial
16 assistance.

17 (4) The department may certify third parties to perform qualifying **re-**
18 **placements,** repowers and retrofits and may contract with third parties to
19 perform such services for the certified costs of qualifying **replacements,**
20 repowers and retrofits. The department may also contract with institutions
21 of higher education or other public bodies as defined by ORS 174.109 to train
22 and certify third parties to perform qualifying **replacements,** repowers and
23 retrofits.

24 **(5) The department may not award a grant or loan for a replace-**
25 **ment, repower or retrofit under subsection (1) of this section unless**
26 **the grant or loan applicant demonstrates to the department's satis-**
27 **faction that the resulting equivalent motor vehicle, equivalent equip-**
28 **ment, repowered nonroad diesel engine or retrofitted diesel engine will**
29 **undergo at least 50 percent of its use in Oregon, as measured by miles**
30 **driven or hours operated, for the three years following the replace-**
31 **ment, repower or retrofit.**

1 [(5)] **(6)** The department may not award a grant to scrap an Oregon diesel
2 truck engine under subsection (1)[(c)] of this section unless the engine was
3 manufactured prior to 1994 and the engine is in operating condition at the
4 time of the grant application or, if repairs are needed, the owner demon-
5 strates to the department's satisfaction that the engine can be repaired to
6 an operating condition for less than its commercial scrap value. The Envi-
7 ronmental Quality Commission shall adopt rules for a maximum grant
8 awarded under subsection (1)[(c)] of this section for an engine in a heavy-
9 duty truck and for an engine in a medium-duty truck. A grant awarded under
10 subsection (1)[(c)] of this section may not be combined with any other tax
11 credits, grants or loans, or any other public financial assistance, to scrap an
12 Oregon diesel truck engine.

13 **(7) Subject to and consistent with federal law, any moneys received**
14 **from the federal government that are deposited in the Clean Diesel**
15 **Engine Fund under ORS 468A.801 (2)(b) must be used for initiatives to**
16 **reduce emissions from diesel engines. Subsections (1) to (6) of this**
17 **section and ORS 468A.797 and 468A.799 do not apply to use of moneys**
18 **in the fund received from the federal government.**

19 **(8) Subject to and consistent with the terms of the Environmental**
20 **Mitigation Trust Agreement, any moneys received by the State of**
21 **Oregon pursuant to the agreement that are deposited in the Clean**
22 **Diesel Engine Fund must be used by the department to award grants**
23 **for the purpose of reducing nitrogen oxides emissions from diesel en-**
24 **gines. Subsections (1) to (7) of this section and ORS 468A.797 and**
25 **468A.799 do not apply to use of moneys in the fund received pursuant**
26 **to the agreement. To the extent authorized by the agreement, the de-**
27 **partment shall allocate moneys awarded pursuant to this subsection**
28 **among:**

29 **(a) Owners and operators of school buses powered by diesel engines**
30 **for 30 percent of certified replacement costs beginning with the oldest**
31 **diesel powered school buses in the state and proceeding until at least**

1 **450 buses have been replaced; and**

2 **(b) Owners and operators of the following categories of motor ve-**
3 **hicles powered by diesel engines, subject to the preferences for grant**
4 **awards established under section 10 (1)(b) of this 2017 Act:**

5 **(A) Drayage trucks.**

6 **(B) Delivery trucks.**

7 **(C) Waste hauling trucks.**

8 **(D) Transit buses.**

9 **(9) The department may not award a grant under subsection (8) of**
10 **this section to the owner or operator of a motor vehicle powered by a**
11 **diesel engine unless the following criteria are met:**

12 **(a) Use of the motor vehicle has occurred in Oregon during the year**
13 **preceding the date of the grant.**

14 **(b) The motor vehicle is authorized for use in this state.**

15 **(c) For the three years following the receipt of a grant award, at**
16 **least 50 percent of the motor vehicle use for which the owner or op-**
17 **erator received the grant will occur in Oregon, as measured by miles**
18 **driven or hours operated.**

19 **(d) The grant will not exceed the cost-effectiveness threshold where,**
20 **notwithstanding ORS 468A.795, the “cost-effectiveness threshold” for**
21 **purposes of this paragraph means the cost in dollars per ton of diesel**
22 **particulate and nitrogen oxides reduced, as established by rule of the**
23 **commission.**

24 **(e) Any other criteria the department deems necessary to ensure**
25 **that a grant award will result in reducing emissions from diesel en-**
26 **gines in this state.**

27 **[(6)] (10) The department may use the moneys in the Clean Diesel Engine**
28 **Fund to pay expenses of the department in administering the program de-**
29 **scribed in [this section] ORS 468A.795 to 468A.803.**

30 **[(7) The commission shall adopt rules to implement this section and ORS**
31 **468A.801, including but not limited to establishing preferences for grant and**

1 *loan awards based upon percentage of engine use in Oregon, whether a grant*
 2 *or loan applicant will provide matching funds, whether scrapping, repowering*
 3 *or retrofitting an engine will benefit sensitive populations or areas with ele-*
 4 *vated concentrations of diesel particulate matter, or such other criteria as the*
 5 *commission may establish. The rules adopted by the commission shall reserve*
 6 *a portion of the financial assistance available each year for applicants that*
 7 *own or operate a small number of Oregon diesel engines or Oregon diesel truck*
 8 *engines and shall provide for simplified access to financial assistance for those*
 9 *applicants.]*

10 *[(8) The department may perform activities necessary to ensure that recipi-*
 11 *ents of grants and loans from the Clean Diesel Engine Fund comply with ap-*
 12 *plicable requirements. If the department determines that a recipient has not*
 13 *complied with applicable requirements, it may order the recipient to refund all*
 14 *grant or loan moneys and may impose penalties pursuant to ORS 468.140.]*

15 **SECTION 9. Section 10 of this 2017 Act is added to and made a part**
 16 **of ORS 468A.795 to 468A.803.**

17 **SECTION 10. (1) The Environmental Quality Commission shall**
 18 **adopt rules to implement ORS 468A.801 and 468A.803, including but not**
 19 **limited to rules that establish preferences for awarding:**

20 **(a) Grants and loans under ORS 468A.803 (1) based upon a percent-**
 21 **age of diesel engine use in Oregon, whether a grant or loan applicant**
 22 **will provide matching funds, whether scrapping, replacement, repow-**
 23 **ering or retrofitting an engine will benefit sensitive populations or**
 24 **areas with elevated concentrations of diesel particulate matter, or**
 25 **such other criteria as the commission may establish; and**

26 **(b) Grants under ORS 468A.803 (8)(b) based upon the estimated**
 27 **number of vehicles in each category, estimated emission reduction**
 28 **benefits by category measured in tons per year relative to the costs**
 29 **of achieving those benefits, or such other criteria as the commission**
 30 **may establish.**

31 **(2) Rules adopted by the commission under this section must re-**

1 serve a portion of the financial assistance available each year for ap-
2 plicants that own or operate a small number of diesel engines or
3 Oregon diesel truck engines and must provide for simplified access to
4 financial assistance for those applicants.

5 (3) The Department of Environmental Quality may perform activ-
6 ities necessary to ensure that recipients of grants and loans from the
7 Clean Diesel Engine Fund comply with applicable requirements. If the
8 department determines that a recipient has not complied with appli-
9 cable requirements, the department may order the recipient to refund
10 all grant or loan moneys and may impose penalties pursuant to ORS
11 468.140.

12
13 **NONROAD DIESEL ENGINE INVENTORY**

14
15 **(Inventory)**

16
17 **SECTION 11.** (1) As used in this section, “nonroad diesel engine”
18 means a compression ignition engine of 25 horsepower or more that
19 is not designed primarily to propel a motor vehicle on public highways.

20 (2) The Department of Environmental Quality shall hire or contract
21 with a third-party organization to develop a comprehensive, statewide
22 inventory of nonroad diesel engines used in Oregon. The department
23 shall require the third-party organization to complete the inventory
24 and all other activities necessary to meet the requirements of this
25 section no later than July 1, 2019. A third-party organization hired or
26 contracted with under this section must have experience related to:

27 (a) Collecting, analyzing and compiling data and information relat-
28 ing to developing equipment and emission inventories;

29 (b) Tailoring the presentation of data and information to be com-
30 patible with the technological and informational needs of a govern-
31 ment agency in a manner that enhances and supplements the agency’s

1 existing information; and

2 (c) Reviewing, developing and making recommendations on gov-
3 ernment financial incentives for reducing diesel engine emissions.

4 (3) Information gathered by the third-party organization must in-
5 clude all of the following:

6 (a) For each vehicle powered by a nonroad diesel engine:

7 (A) The manufacturer, type, model year, model number, serial
8 number and purchase date of the vehicle.

9 (B) The primary vocation and all other vocations that the vehicle
10 is operated in.

11 (b) For each nonroad diesel engine, including all nonroad diesel
12 engines powering a multiengine vehicle:

13 (A) The manufacturer, model year, model number, serial number,
14 horsepower and engine family name of the nonroad diesel engine.

15 (B) The purchase date of the nonroad diesel engine, if different
16 from the purchase date of the vehicle powered by the nonroad diesel
17 engine.

18 (C) The annual average hours of operation and annual average fuel
19 consumption of the nonroad diesel engine during the previous three
20 years.

21 (D) Information on whether the nonroad diesel engine can also be
22 used in an application other than as a nonroad diesel engine.

23 (E) Information on whether the nonroad diesel engine was equipped
24 with new emissions-reducing parts or technology after the manufac-
25 ture of the original nonroad diesel engine.

26 (c) For each emissions-reducing part or technology with which a
27 nonroad diesel engine was equipped after the manufacture of the ori-
28 ginal nonroad diesel engine, the manufacturer, model number, serial
29 number, purchase date and engine family name of the part or tech-
30 nology.

31 (d) Information relating to whether nonroad diesel engines that do

1 not meet emission standards in the State of California are being sold
2 to and used by owners and operators in this state.

3 **SECTION 12.** Section 11 of this 2017 Act is repealed on January 2,
4 2020.

5 **SECTION 13.** (1) The Department of Environmental Quality shall
6 maintain an inventory of nonroad diesel engines used in Oregon. The
7 department shall use the inventory required by this section to inform
8 any decision-making or rulemaking by the department or the Envi-
9 ronmental Quality Commission that is related to the adoption or ad-
10 ministration of standards, financial incentives or other policies related
11 to the control of nonroad diesel engine emissions. The department and
12 the commission shall utilize the inventory for purposes including, but
13 not limited to:

14 (a) Ensuring the accuracy and integrity of the department's
15 understanding of the share of air contaminant emissions attributable
16 to the use of nonroad diesel engines in this state as compared to the
17 share of air contaminant emissions attributable to all other air con-
18 tamination sources, as that term is defined in ORS 468A.005.

19 (b) Determining the specific impacts that the use of nonroad diesel
20 engines in Oregon have on any exceedance or projected exceedance in
21 the near future of national ambient air quality standards.

22 (c) Identifying the highest and best uses of any financial incentives
23 that the department may offer to owners and operators of nonroad
24 diesel engines to reduce diesel engine emissions.

25 (d) Identifying any principally local or regional concerns related to
26 nonroad diesel engine emissions and tailored solutions for addressing
27 those principally local or regional concerns.

28 (e) The economic and socioeconomic impacts on public and private
29 owners and operators of nonroad diesel engines of imposing additional
30 state standards or other air quality regulations related to nonroad
31 diesel engine emissions.

1 *8 of this 2007 Act*] **ORS 468A.799**;

2 (b) [*The engine will constitute an Oregon diesel engine*] **The repowered**
3 **or retrofitted engine will undergo at least 50 percent of its use in**
4 **Oregon, as measured by miles driven or hours operated, for the three**
5 **years following the repower or retrofit; and**

6 (c) The taxpayer has obtained a tax credit cost certification from the
7 Department of Environmental Quality under section 16 [*of this 2007 Act*],
8 **chapter 855, Oregon Laws 2007**, for the cost of the repower or retrofit.

9 (2) The maximum amount of the tax credit allowed under this section is
10 limited to:

11 (a) 25 percent of the certified cost of each qualifying repower; and

12 (b) 50 percent of the certified cost of each qualifying retrofit.

13 (3) The amount of the tax credit allowed to the taxpayer under this sec-
14 tion in any one tax year may not exceed the tax liability of the taxpayer for
15 the tax year.

16 (4) Any tax credit that is allowed under this section, but limited by sub-
17 section (3) of this section, and that is not used by the taxpayer in a partic-
18 ular tax year may be carried forward and offset against the taxpayer's tax
19 liability as prescribed in subsection (3) of this section for the next succeeding
20 tax year. Any credit remaining unused in the next succeeding tax year may
21 be carried forward and offset against the taxpayer's tax liability as pre-
22 scribed in subsection (3) of this section for the second succeeding tax year.
23 Any credit remaining unused in the second succeeding tax year may be car-
24 ried forward and offset against the taxpayer's tax liability as prescribed in
25 subsection (3) of this section for the third succeeding tax year, but may not
26 be carried forward for any tax year thereafter.

27 (5) The credit allowed under this section is not in lieu of any depreciation
28 or amortization deduction for the engine to which the taxpayer otherwise
29 may be entitled for purposes of ORS chapter 316, 317 or 318. The taxpayer's
30 adjusted basis for determining gain or loss may not be decreased by any tax
31 credits allowed under this section.

1 (6)(a) The Department of Revenue may disallow the credit allowed under
2 this section if the department finds that the credit was obtained by fraud or
3 misrepresentation, or if the department learns that the engine that was the
4 subject of the qualifying repower or retrofit was destroyed by arson com-
5 mitted by the taxpayer, or if the engine no longer meets the requirements for
6 obtaining the tax credit.

7 (b) If the tax credit is disallowed pursuant to this subsection, notwith-
8 standing ORS 314.410 or other law, all prior tax relief provided to the tax-
9 payer shall be forfeited, the department shall proceed to collect those taxes
10 not paid by the taxpayer as a result of the prior granting of the credit and
11 the taxpayer shall be denied any further credit provided under this section.

12 (c) The department may perform activities necessary to ensure that re-
13 cipients of the tax credit comply with applicable requirements.

14 (7)(a) A nonresident individual shall be allowed the credit computed in
15 the same manner and subject to the same limitations as the credit allowed
16 a resident by this section. However, the credit shall be prorated using the
17 proportion provided in ORS 316.117.

18 (b) If a change in the taxable year of a taxpayer occurs as described in
19 ORS 314.085, or if the Department of Revenue terminates the taxpayer's
20 taxable year under ORS 314.440, the credit allowed by this section shall be
21 prorated or computed in a manner consistent with ORS 314.085.

22 (c) If a change in the status of a taxpayer from resident to nonresident
23 or from nonresident to resident occurs, the credit allowed by this section
24 shall be determined in a manner consistent with ORS 316.117.

25 (8) The taxpayer shall claim the credit on a form prescribed by the De-
26 partment of Revenue containing the information required by the Department
27 of Revenue. The taxpayer shall maintain the tax credit cost certification is-
28 sued by the Department of Environmental Quality under section 16 [*of this*
29 *2007 Act*], **chapter 855, Oregon Laws 2007**, in the records of the taxpayer
30 for the length of time prescribed by the Department of Revenue and shall
31 provide a copy of the cost certification to the Department of Revenue if re-

1 requested.

2 (9) A taxpayer may not claim a credit under this section and ORS 315.304
3 with respect to the same diesel engine or group of diesel engines. A taxpayer
4 may claim a credit under this section and under ORS [469.185 to 469.225]
5 **469B.130 to 469B.169** with respect to the same diesel engine or group of
6 diesel engines if the taxpayer and diesel engines otherwise meet the re-
7 quirements to be allowed a tax credit under ORS [469.185 to 469.225] **469B.130**
8 **to 469B.169.**

9

10

CAPTIONS

11

12 **SECTION 17. The unit captions used in this 2017 Act are provided**
13 **only for the convenience of the reader and do not become part of the**
14 **statutory law of this state or express any legislative intent in the**
15 **enactment of this 2017 Act.**

16

17

EMERGENCY CLAUSE

18

19 **SECTION 18. This 2017 Act being necessary for the immediate**
20 **preservation of the public peace, health and safety, an emergency is**
21 **declared to exist, and this 2017 Act takes effect on July 1, 2017.**

22
