

House Bill 2110

Sponsored by Representative GREENLICK; Representatives BARNHART, NOSSE, Senator DEMBROW (Presession filed.)

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 Environmental Quality Commission to, no later than January 1, 2022, adopt by rule standards and programs for reducing diesel emissions from medium-duty trucks, heavy-duty trucks and nonroad diesel engines.

A BILL FOR AN ACT

1
2 Relating to diesel; creating new provisions; and amending ORS 468A.795, 468A.799 and 468A.803 and
3 section 12, chapter 855, Oregon Laws 2007.

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

DEFINITIONS

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

9 468A.795. As used in ORS 468A.795 to 468A.803 and sections 11 to 16, chapter 855, Oregon Laws
10 2007:

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

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

14 **(3) "Diesel engine" means a compression ignition engine.**

15 [(3)] **(4) "Heavy-duty truck" means a motor vehicle or combination of vehicles operated as a unit**
16 **that has a combined weight that is greater than 26,000 pounds.**

17 [(4)] **(5) "Incremental cost" means the cost of a qualifying repower or retrofit less a baseline**
18 **cost that would otherwise be incurred in the normal course of business.**

19 [(5)] **(6) "Medium-duty truck" means a motor vehicle or combination of vehicles operated as a**
20 **unit that has a combined weight that is greater than 14,000 pounds but less than or equal to 26,000**
21 **pounds.**

22 [(6)] **(7) "Motor vehicle" has the meaning given that term in ORS 825.005.**

23 **(8) "Nonroad diesel engine" means a diesel engine of 25 horsepower or more that is not**
24 **designed primarily to propel a motor vehicle on public highways.**

25 [(7)] *"Nonroad Oregon diesel engine" means any Oregon diesel engine that was not designed pri-*
26 *marily to propel a motor vehicle on public highways of this state.]*

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

30 (9) "Oregon diesel truck engine" means a diesel engine in a truck at least 50 percent of the use

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 of which, as measured by miles driven or hours operated, has occurred in Oregon for the two years
 2 preceding the scrapping of the engine.

3 (10) "Public highway" has the meaning given that term in ORS 825.005.

4 (11) "Repower" means to scrap an old diesel engine and [*replace*] **substitute** it with a new en-
 5 gine, a used engine or a remanufactured engine, or with electric motors, drives or fuel cells, with
 6 a minimum useful life of seven years.

7 (12) "Retrofit" means to equip a diesel engine with new emissions-reducing parts or technology
 8 after the manufacture of the original engine. A retrofit must use the greatest degree of emissions
 9 reduction available for the particular application of the equipment retrofitted that meets the cost-
 10 effectiveness threshold.

11 (13) "Scrap" means to destroy and render inoperable.

12 (14) "Truck" means a motor vehicle or combination of vehicles operated as a unit that has a
 13 combined weight that is greater than 14,000 pounds.

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

16 468A.795. As used in ORS 468A.795 to 468A.803:

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

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

20 **(3) "Diesel engine" means a compression ignition engine.**

21 [(3)] **(4) "Heavy-duty truck" means a motor vehicle or combination of vehicles operated as a unit**
 22 **that has a combined weight that is greater than 26,000 pounds.**

23 [(4)] **(5) "Incremental cost" means the cost of a qualifying repower or retrofit less a baseline**
 24 **cost that would otherwise be incurred in the normal course of business.**

25 [(5)] **(6) "Medium-duty truck" means a motor vehicle or combination of vehicles operated as a**
 26 **unit that has a combined weight that is greater than 14,000 pounds but less than or equal to 26,000**
 27 **pounds.**

28 [(6)] **(7) "Motor vehicle" has the meaning given that term in ORS 825.005.**

29 **(8) "Nonroad diesel engine" means a diesel engine of 25 horsepower or more that is not**
 30 **designed primarily to propel a motor vehicle on public highways.**

31 [(7) "*Nonroad Oregon diesel engine" means any Oregon diesel engine that was not designed pri-*
 32 *marily to propel a motor vehicle on public highways of this state.*]

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

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

39 (10) "Public highway" has the meaning given that term in ORS 825.005.

40 (11) "Repower" means to scrap an old diesel engine and [*replace*] **substitute** it with a new en-
 41 gine, a used engine or a remanufactured engine, or with electric motors, drives or fuel cells, with
 42 a minimum useful life of seven years.

43 (12) "Retrofit" means to equip a diesel engine with new emissions-reducing parts or technology
 44 after the manufacture of the original engine. A retrofit must use the greatest degree of emissions
 45 reduction available for the particular application of the equipment retrofitted that meets the cost-

1 effectiveness threshold.

2 (13) "Scrap" means to destroy and render inoperable.

3 (14) "Truck" means a motor vehicle or combination of vehicles operated as a unit that has a
4 combined weight that is greater than 14,000 pounds.

5
6 **DIESEL ENGINE EMISSION STANDARDS**
7

8 **SECTION 3.** Sections 4 and 5 of this 2017 Act are added to and made a part of ORS
9 468A.795 to 468A.803.

10 **SECTION 4.** (1) The Environmental Quality Commission by rule shall establish diesel
11 engine emission standards for medium-duty trucks and heavy-duty trucks.

12 (2) The standards adopted by the commission under this section may include but need
13 not be limited to:

14 (a) Standards limiting idling.

15 (b) Standards requiring engine control labels.

16 (c) An inspection program that may include periodic smoke inspections.

17 (d) A schedule to phase in implementation of a requirement for all publicly and privately
18 owned medium-duty trucks and heavy-duty trucks operating in Oregon to be repowered or
19 retrofitted to reduce diesel engine emissions.

20 (e) Standards for diesel engine emission controls for drayage trucks and transport re-
21 frigeration units.

22 (f) A requirement and schedule to phase in implementation of the use of the best avail-
23 able control technology in all motor vehicles powered by diesel engines and owned by a
24 municipality or utility.

25 (g) Standards for reducing diesel particulate matter emissions from motor vehicles pow-
26 ered by diesel engines owned by a public transit agency.

27 (h) A requirement and schedule to phase in implementation of the use of the best avail-
28 able control technology in solid waste collection vehicles powered by diesel engines.

29 (3) Before adopting rules under this section, the commission shall consider regulations
30 adopted by the State of California for reducing diesel engine emissions from in-use medium-
31 duty trucks and heavy-duty trucks.

32 **SECTION 5.** (1) The Environmental Quality Commission shall adopt by rule nonroad die-
33 sel engine emission standards. The standards adopted under this section, and implementation
34 and enforcement of the standards, must be consistent with the requirements of section
35 209(e) of the federal Clean Air Act (P.L. 88-206 as amended).

36 (2) Before adopting rules under this section, the commission shall consider regulations
37 adopted by the State of California for reducing nonroad diesel engine emissions.

38 **SECTION 6.** (1) Sections 4 and 5 of this 2017 Act become operative on January 1, 2022.

39 (2) The Environmental Quality Commission and the Department of Environmental Qual-
40 ity may take any action before the operative date specified in subsection (1) of this section
41 that is necessary for the commission and the department to exercise, on and after the op-
42 erative date specified in subsection (1) of this section, all of the duties, functions and powers
43 conferred on the commission and the department by sections 4 and 5 of this 2017 Act.
44

45 **CONFORMING AMENDMENTS AND TECHNICAL CHANGES**

SECTION 7. ORS 468A.799 is amended to read:

468A.799. (1) The Environmental Quality Commission by rule shall establish standards for the qualifying repower of a nonroad [*Oregon*] diesel engine or retrofit of [*an Oregon*] a diesel engine, including but not limited to rules establishing repower or retrofit qualifications for purposes of the tax credit established in section 12, chapter 855, Oregon Laws 2007.

(2) The standards adopted by the commission under this section must include:

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

(b) A list of technologies approved as qualifying repowers or retrofits that have been verified by the United States Environmental Protection Agency or the California Air Resources Board; and

(c) A requirement that a qualifying repower or retrofit does not include the repower or retrofit of a vehicle or engine for which a grant, loan or tax credit under ORS 468A.803 or section 12, chapter 855, Oregon Laws 2007, has been awarded or allowed, unless the repower or retrofit will reduce emissions further than the repower or retrofit funded by the grant, loan or tax credit.

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

468A.799. (1) The Environmental Quality Commission by rule shall establish standards for the qualifying repower of a nonroad [*Oregon*] diesel engine or retrofit of [*an Oregon*] a diesel engine.

(2) The standards adopted by the commission under this section must include:

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

(b) A list of technologies approved as qualifying repowers or retrofits that have been verified by the United States Environmental Protection Agency or the California Air Resources Board; and

(c) A requirement that a qualifying repower or retrofit does not include the repower or retrofit of a vehicle or engine for which a grant or loan under ORS 468A.803 has been awarded or allowed, unless the repower or retrofit will reduce emissions further than the repower or retrofit funded by the grant or loan.

SECTION 9. ORS 468A.803 is amended to read:

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

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

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

(c) Grants to the owners of Oregon diesel truck engines to scrap those engines.

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

[(3)] (2) In determining the amount of a grant or loan under this section, the department must reduce the incremental cost of a qualifying repower or retrofit by the value of any existing financial incentive that directly reduces the cost of the qualifying repower or retrofit, including tax credits, other grants or loans, or any other public financial assistance.

1 [(4)] (3) The department may certify third parties to perform qualifying repowers and retrofits
 2 and may contract with third parties to perform such services for the certified costs of qualifying
 3 repowers and retrofits. The department may also contract with institutions of higher education or
 4 other public bodies as defined by ORS 174.109 to train and certify third parties to perform qualifying
 5 repowers and retrofits.

6 **(4) The department may not award a grant or loan for a repower or retrofit under sub-**
 7 **section (1) of this section unless the grant or loan applicant demonstrates to the**
 8 **department's satisfaction that the resulting retrofitted diesel engine or repowered nonroad**
 9 **diesel engine will undergo at least 50 percent of its use in Oregon, as measured by miles**
 10 **driven or hours operated, for the three years following the repower or retrofit.**

11 (5) The department may not award a grant to scrap an Oregon diesel truck engine under sub-
 12 section (1)(c) of this section unless the engine was manufactured prior to 1994 and the engine is in
 13 operating condition at the time of the grant application or, if repairs are needed, the owner dem-
 14 onstrates to the department's satisfaction that the engine can be repaired to an operating condition
 15 for less than its commercial scrap value. The Environmental Quality Commission shall adopt rules
 16 for a maximum grant awarded under subsection (1)(c) of this section for an engine in a heavy-duty
 17 truck and for an engine in a medium-duty truck. A grant awarded under subsection (1)(c) of this
 18 section may not be combined with any other tax credits, grants or loans, or any other public fi-
 19 nancial assistance, to scrap an Oregon diesel truck engine.

20 **(6) Subject to and consistent with federal law, any moneys received from the federal**
 21 **government that are deposited in the Clean Diesel Engine Fund under ORS 468A.801 (2)(b)**
 22 **must be used for initiatives to reduce diesel engine emissions. Subsections (1) to (5) of this**
 23 **section and ORS 468A.797 and 468A.799 do not apply to use of moneys in the fund received**
 24 **from the federal government.**

25 [(6)] (7) The department may use the moneys in the Clean Diesel Engine Fund to pay expenses
 26 of the department in administering [*the program described in this section*] **ORS 468A.795 to**
 27 **468A.803.**

28 [*(7) The commission shall adopt rules to implement this section and ORS 468A.801, including but*
 29 *not limited to establishing preferences for grant and loan awards based upon percentage of engine use*
 30 *in Oregon, whether a grant or loan applicant will provide matching funds, whether scrapping, repow-*
 31 *ering or retrofitting an engine will benefit sensitive populations or areas with elevated concentrations*
 32 *of diesel particulate matter, or such other criteria as the commission may establish. The rules adopted*
 33 *by the commission shall reserve a portion of the financial assistance available each year for applicants*
 34 *that own or operate a small number of Oregon diesel engines or Oregon diesel truck engines and shall*
 35 *provide for simplified access to financial assistance for those applicants.*]

36 [(8) *The department may perform activities necessary to ensure that recipients of grants and loans*
 37 *from the Clean Diesel Engine Fund comply with applicable requirements. If the department determines*
 38 *that a recipient has not complied with applicable requirements, it may order the recipient to refund all*
 39 *grant or loan moneys and may impose penalties pursuant to ORS 468.140.*]

40 **SECTION 10. Section 11 of this 2017 Act is added to and made a part of ORS 468A.795 to**
 41 **468A.803.**

42 **SECTION 11. (1) The Environmental Quality Commission shall adopt rules to implement**
 43 **ORS 468A.801 and 468A.803, including but not limited to rules that establish preferences for**
 44 **awarding grants and loans under ORS 468A.803 (1) based on a percentage of diesel engine use**
 45 **in Oregon, whether a grant or loan applicant will provide matching funds, whether scrapping,**

1 repowering or retrofitting an engine will benefit sensitive populations or areas with elevated
 2 concentrations of diesel particulate matter, or such other criteria as the commission may
 3 establish by rule.

4 (2) Rules adopted by the commission under this section must reserve a portion of the
 5 financial assistance available each year for applicants that own or operate a small number
 6 of diesel engines or Oregon diesel truck engines and must provide for simplified access to
 7 financial assistance for those applicants.

8 (3) The Department of Environmental Quality may perform activities necessary to ensure
 9 that recipients of financial assistance from the Clean Diesel Engine Fund comply with ap-
 10 plicable requirements. If the department determines that a recipient has not complied with
 11 applicable requirements, the department may order the recipient to refund all financial as-
 12 sistance moneys and may impose penalties pursuant to ORS 468.140.

13 **SECTION 12.** Section 12, chapter 855, Oregon Laws 2007, is amended to read:

14 **Sec. 12.** (1) A personal income or corporate income or excise taxpayer is allowed a credit
 15 against the taxes that are otherwise due under ORS chapter 316, 317 or 318 for the certified costs
 16 of a repower of a nonroad [*Oregon*] diesel engine or retrofit of [*an Oregon*] a diesel engine that oc-
 17 curs after [*the effective date of this 2007 Act*] **September 27, 2007**, if:

18 (a) The repower or retrofit has been identified as qualifying for the credit under rules adopted
 19 by the Environmental Quality Commission under [*section 8 of this 2007 Act*] **ORS 468A.799**;

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

23 (c) The taxpayer has obtained a tax credit cost certification from the Department of Environ-
 24 mental Quality under section 16 [*of this 2007 Act*], **chapter 855, Oregon Laws 2007**, for the cost
 25 of the repower or retrofit.

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

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

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

29 (3) The amount of the tax credit allowed to the taxpayer under this section in any one tax year
 30 may not exceed the tax liability of the taxpayer for the tax year.

31 (4) Any tax credit that is allowed under this section, but limited by subsection (3) of this section,
 32 and that is not used by the taxpayer in a particular tax year may be carried forward and offset
 33 against the taxpayer's tax liability as prescribed in subsection (3) of this section for the next suc-
 34 ceeding tax year. Any credit remaining unused in the next succeeding tax year may be carried
 35 forward and offset against the taxpayer's tax liability as prescribed in subsection (3) of this section
 36 for the second succeeding tax year. Any credit remaining unused in the second succeeding tax year
 37 may be carried forward and offset against the taxpayer's tax liability as prescribed in subsection (3)
 38 of this section for the third succeeding tax year, but may not be carried forward for any tax year
 39 thereafter.

40 (5) The credit allowed under this section is not in lieu of any depreciation or amortization de-
 41 duction for the engine to which the taxpayer otherwise may be entitled for purposes of ORS chapter
 42 316, 317 or 318. The taxpayer's adjusted basis for determining gain or loss may not be decreased by
 43 any tax credits allowed under this section.

44 (6)(a) The Department of Revenue may disallow the credit allowed under this section if the de-
 45 partment finds that the credit was obtained by fraud or misrepresentation, or if the department

1 learns that the engine that was the subject of the qualifying repower or retrofit was destroyed by
 2 arson committed by the taxpayer, or if the engine no longer meets the requirements for obtaining
 3 the tax credit.

4 (b) If the tax credit is disallowed pursuant to this subsection, notwithstanding ORS 314.410 or
 5 other law, all prior tax relief provided to the taxpayer shall be forfeited, the department shall pro-
 6 ceed to collect those taxes not paid by the taxpayer as a result of the prior granting of the credit
 7 and the taxpayer shall be denied any further credit provided under this section.

8 (c) The department may perform activities necessary to ensure that recipients of the tax credit
 9 comply with applicable requirements.

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

13 (b) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the
 14 Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit al-
 15 lowed by this section shall be prorated or computed in a manner consistent with ORS 314.085.

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

19 (8) The taxpayer shall claim the credit on a form prescribed by the Department of Revenue
 20 containing the information required by the Department of Revenue. The taxpayer shall maintain the
 21 tax credit cost certification issued by the Department of Environmental Quality under section 16
 22 [of this 2007 Act], **chapter 855, Oregon Laws 2007**, in the records of the taxpayer for the length
 23 of time prescribed by the Department of Revenue and shall provide a copy of the cost certification
 24 to the Department of Revenue if requested.

25 (9) A taxpayer may not claim a credit under this section and ORS 315.304 with respect to the
 26 same diesel engine or group of diesel engines. A taxpayer may claim a credit under this section and
 27 under ORS [469.185 to 469.225] **469B.130 to 469B.169** with respect to the same diesel engine or group
 28 of diesel engines if the taxpayer and diesel engines otherwise meet the requirements to be allowed
 29 a tax credit under ORS [469.185 to 469.225] **469B.130 to 469B.169**.

30
 31 **CAPTIONS**

32
 33 **SECTION 13. The unit captions used in this 2017 Act are provided only for the conven-**
 34 **ience of the reader and do not become part of the statutory law of this state or express any**
 35 **legislative intent in the enactment of this 2017 Act.**