

# House Bill 2437

Sponsored by Representative PARRISH (Pre-session 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**.

Increases per-gallon aircraft fuel taxes. Continuously appropriates increase in revenue net of administrative costs to Oregon Department of Aviation for aviation-related education and training programs.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to the taxation of aircraft fuel; creating new provisions; amending ORS 319.020 and 319.330;  
3 prescribing an effective date; and providing for revenue raising that requires approval by a  
4 three-fifths majority.

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

6 **SECTION 1.** ORS 319.020 is amended to read:

7 319.020. (1) Subject to subsections (2) to (4) of this section, in addition to the taxes otherwise  
8 provided for by law, every dealer engaging in the dealer's own name, or in the name of others, in  
9 the first sale, use or distribution of motor vehicle fuel or aircraft fuel or withdrawal of motor vehicle  
10 fuel or aircraft fuel for sale, use or distribution within areas in this state within which the state  
11 lacks the power to tax the sale, use or distribution of motor vehicle fuel or aircraft fuel, shall:

12 (a) Not later than the 25th day of each calendar month, render a statement to the Department  
13 of Transportation of all motor vehicle fuel or aircraft fuel sold, used, distributed or so withdrawn  
14 by the dealer in the State of Oregon as well as all such fuel sold, used or distributed in this state  
15 by a purchaser thereof upon which sale, use or distribution the dealer has assumed liability for the  
16 applicable license tax during the preceding calendar month. The dealer shall render the statement  
17 to the department in the manner provided by the department by rule.

18 (b) Except as provided in ORS 319.270, pay a license tax computed on the basis of 30 cents per  
19 gallon on the first sale, use or distribution of such motor vehicle fuel or aircraft fuel so sold, used,  
20 distributed or withdrawn as shown by such statement in the manner and within the time provided  
21 in ORS 319.010 to 319.430.

22 (2) When aircraft fuel is sold, used or distributed by a dealer, the license tax shall be computed  
23 on the basis of *[11]* **12** cents per gallon of fuel so sold, used or distributed, except that when aircraft  
24 fuel usable in aircraft operated by turbine engines (turbo-prop or jet) is sold, used or distributed, the  
25 tax rate shall be *[three]* **four** cents per gallon.

26 (3) In lieu of claiming refund of the tax paid on motor vehicle fuel consumed by such dealer in  
27 nonhighway use as provided in ORS 319.280, 319.290 and 319.320, or of any prior erroneous payment  
28 of license tax made to the state by such dealer, the dealer may show such motor vehicle fuel as a  
29 credit or deduction on the monthly statement and payment of tax.

30 (4) The license tax computed on the basis of the sale, use, distribution or withdrawal of motor

**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 vehicle or aircraft fuel may not be imposed wherever such tax is prohibited by the Constitution or  
 2 laws of the United States with respect to such tax.

3 **SECTION 2.** ORS 319.330 is amended to read:

4 319.330. (1) Whenever any statement and invoices are presented to the Department of Trans-  
 5 portation showing that motor vehicle fuel or aircraft fuel has been purchased and used in operating  
 6 aircraft engines and upon which the full tax for motor vehicle fuel has been paid, the department  
 7 shall refund the tax paid, but only after deducting from the tax paid [11] **12** cents for each gallon  
 8 of such fuel so purchased and used, except that when such fuel is used in operating aircraft turbine  
 9 engines (turbo-prop or jet) the deduction shall be [three] **four** cents for each gallon. No deduction  
 10 provided under this subsection shall be made on claims presented by the United States or on claims  
 11 presented where a satisfactory showing has been made to the department that such aircraft fuel has  
 12 been used solely in aircraft operations from a point within the State of Oregon directly to a point  
 13 not within any state of the United States. The amount so deducted shall be paid on warrant of the  
 14 Oregon Department of Administrative Services to the State Treasurer, who shall credit the amount  
 15 to the State Aviation Account for the purpose of carrying out the provisions of the state aviation  
 16 law. Moneys credited to the account under this section are continuously appropriated to the Oregon  
 17 Department of Aviation.

18 (2) If satisfactory evidence is presented to the Department of Transportation showing that air-  
 19 craft fuel upon which the tax has been paid has been purchased and used solely in aircraft oper-  
 20 ations from a point within the State of Oregon directly to a point not within any state of the United  
 21 States, the department shall refund the tax paid.

22 **SECTION 3.** (1) **The amendments to ORS 319.020 by section 1 of this 2017 Act apply to**  
 23 **aircraft fuel sold, used or distributed on or after January 1, 2018, and before January 1, 2022.**

24 **(2) The amendments to ORS 319.330 by section 2 of this 2017 Act apply to fuel purchased**  
 25 **and used in operating aircraft engines on or after January 1, 2018, and before January 1, 2022.**

26 **SECTION 4.** ORS 319.020, as amended by section 4, chapter 700, Oregon Laws 2015, is amended  
 27 to read:

28 319.020. (1) Subject to subsections (2) to (4) of this section, in addition to the taxes otherwise  
 29 provided for by law, every dealer engaging in the dealer's own name, or in the name of others, in  
 30 the first sale, use or distribution of motor vehicle fuel or aircraft fuel or withdrawal of motor vehicle  
 31 fuel or aircraft fuel for sale, use or distribution within areas in this state within which the state  
 32 lacks the power to tax the sale, use or distribution of motor vehicle fuel or aircraft fuel, shall:

33 (a) Not later than the 25th day of each calendar month, render a statement to the Department  
 34 of Transportation of all motor vehicle fuel or aircraft fuel sold, used, distributed or so withdrawn  
 35 by the dealer in the State of Oregon as well as all such fuel sold, used or distributed in this state  
 36 by a purchaser thereof upon which sale, use or distribution the dealer has assumed liability for the  
 37 applicable license tax during the preceding calendar month. The dealer shall render the statement  
 38 to the department in the manner provided by the department by rule.

39 (b) Except as provided in ORS 319.270, pay a license tax computed on the basis of 30 cents per  
 40 gallon on the first sale, use or distribution of such motor vehicle fuel or aircraft fuel so sold, used,  
 41 distributed or withdrawn as shown by such statement in the manner and within the time provided  
 42 in ORS 319.010 to 319.430.

43 (2) When aircraft fuel is sold, used or distributed by a dealer, the license tax shall be computed  
 44 on the basis of [nine] **10** cents per gallon of fuel so sold, used or distributed, except that when air-  
 45 craft fuel usable in aircraft operated by turbine engines (turbo-prop or jet) is sold, used or distrib-

1     uted, the tax rate shall be *[one cent]* **two cents** per gallon.

2           (3) In lieu of claiming refund of the tax paid on motor vehicle fuel consumed by such dealer in  
3 nonhighway use as provided in ORS 319.280, 319.290 and 319.320, or of any prior erroneous payment  
4 of license tax made to the state by such dealer, the dealer may show such motor vehicle fuel as a  
5 credit or deduction on the monthly statement and payment of tax.

6           (4) The license tax computed on the basis of the sale, use, distribution or withdrawal of motor  
7 vehicle or aircraft fuel may not be imposed wherever such tax is prohibited by the Constitution or  
8 laws of the United States with respect to such tax.

9           **SECTION 5.** ORS 319.330, as amended by section 5, chapter 700, Oregon Laws 2015, is amended  
10 to read:

11           319.330. (1) Whenever any statement and invoices are presented to the Department of Trans-  
12 portation showing that motor vehicle fuel or aircraft fuel has been purchased and used in operating  
13 aircraft engines and upon which the full tax for motor vehicle fuel has been paid, the department  
14 shall refund the tax paid, but only after deducting from the tax paid *[nine]* **10 cents** for each gallon  
15 of such fuel so purchased and used, except that when such fuel is used in operating aircraft turbine  
16 engines (turbo-prop or jet) the deduction shall be *[one cent]* **two cents** for each gallon. No deduction  
17 provided under this subsection shall be made on claims presented by the United States or on claims  
18 presented where a satisfactory showing has been made to the department that such aircraft fuel has  
19 been used solely in aircraft operations from a point within the State of Oregon directly to a point  
20 not within any state of the United States. The amount so deducted shall be paid on warrant of the  
21 Oregon Department of Administrative Services to the State Treasurer, who shall credit the amount  
22 to the State Aviation Account for the purpose of carrying out the provisions of the state aviation  
23 law. Moneys credited to the account under this section are continuously appropriated to the Oregon  
24 Department of Aviation.

25           (2) If satisfactory evidence is presented to the Department of Transportation showing that air-  
26 craft fuel upon which the tax has been paid has been purchased and used solely in aircraft oper-  
27 ations from a point within the State of Oregon directly to a point not within any state of the United  
28 States, the department shall refund the tax paid.

29           **SECTION 6.** (1) **The amendments to ORS 319.020 by section 4 of this 2017 Act apply to**  
30 **aircraft fuel sold, used or distributed on or after January 1, 2022.**

31           **(2) The amendments to ORS 319.330 by section 5 of this 2017 Act apply to fuel purchased**  
32 **and used in operating aircraft engines on or after January 1, 2022.**

33           **SECTION 7.** Section 8 of this 2017 Act is added to and made a part of ORS chapter 836.

34           **SECTION 8.** (1) **The following amounts are continuously appropriated to the Oregon De-**  
35 **partment of Aviation for distribution in the manner prescribed in this section:**

36           **(a) Any amount of tax on aircraft fuel usable in aircraft operated by turbine engines that**  
37 **is computed on a basis in excess of three cents per gallon and any amount of tax on all other**  
38 **aircraft fuel that is computed on a basis in excess of 11 cents per gallon, under ORS 319.020**  
39 **(2); and**

40           **(b) Any amount of tax on aircraft fuel usable in aircraft operated by turbine engines in**  
41 **excess of three cents per gallon and any amount of tax on all other aircraft fuel in excess**  
42 **of 11 cents per gallon, that is deducted before the refunding of tax under ORS 319.330 (1).**

43           **(2)(a) The department may retain five percent of the amounts described in subsection (1)**  
44 **of this section for the costs of the department in administering this section.**

45           **(b) The remaining 95 percent of the amounts described in subsection (1) of this section**

1 shall be distributed pursuant to subsections (3) of this section.

2 (3)(a) **Ninety-five percent of the amounts described in subsection (2)(b) of this section**  
 3 **shall be distributed for the following purposes:**

4 (A) **Aviation and space educational programs in schools in Oregon;**

5 (B) **Science, technology, engineering and math programs related to aviation and aer-**  
 6 **onautics;**

7 (C) **Aviation flight training programs and certifications; and**

8 (D) **Aviation programs certified by the Federal Aviation Administration.**

9 (b) **Five percent shall be used for financial assistance under ORS 836.015 for aviation and**  
 10 **aeronautics education programs and certifications.**

11 (4) **The department shall adopt rules for purposes of administering this section.**

12 **SECTION 9.** Section 8 of this 2017 Act is amended to read:

13 **Sec. 8.** (1) The following amounts are continuously appropriated to the Oregon Department of  
 14 Aviation for distribution in the manner prescribed in this section:

15 (a) Any amount of tax on aircraft fuel usable in aircraft operated by turbine engines that is  
 16 computed on a basis in excess of [*three cents*] **one cent** per gallon and any amount of tax on all  
 17 other aircraft fuel that is computed on a basis in excess of [*11*] **nine** cents per gallon, under ORS  
 18 319.020 (2); and

19 (b) Any amount of tax on aircraft fuel usable in aircraft operated by turbine engines in excess  
 20 of [*three cents*] **one cent** per gallon and any amount of tax on all other aircraft fuel in excess of  
 21 [*11*] **nine** cents per gallon, that is deducted before the refunding of tax under ORS 319.330 (1).

22 (2)(a) The department may retain five percent of the amounts described in subsection (1) of this  
 23 section for the costs of the department in administering this section.

24 (b) The remaining 95 percent of the amounts described in subsection (1) of this section shall be  
 25 distributed pursuant to subsections (3) of this section.

26 (3)(a) **Ninety-five percent of the amounts described in subsection (2)(b) of this section shall be**  
 27 **distributed for the following purposes:**

28 (A) **Aviation and space educational programs in schools in Oregon;**

29 (B) **Science, technology, engineering and math programs related to aviation and aeronautics;**

30 (C) **Aviation flight training programs and certifications; and**

31 (D) **Aviation programs certified by the Federal Aviation Administration.**

32 (b) **Five percent shall be used for financial assistance under ORS 836.015 for aviation and aer-**  
 33 **onautics education programs and certifications.**

34 (4) **The department shall adopt rules for purposes of administering this section.**

35 **SECTION 10. The amendments to section 8 of this 2017 Act by section 9 of this 2017 Act**  
 36 **become operative on January 1, 2022.**

37 **SECTION 11.** Section 7, chapter 700, Oregon Laws 2015, is amended to read:

38 **Sec. 7.** (1) The following amounts shall be distributed in the manner prescribed in this section:

39 (a) Any amount of tax on aircraft fuel usable in aircraft operated by turbine engines that is  
 40 computed on a basis [*in excess of one cent*] **of more than one cent but not more than three cents**  
 41 **per gallon and any amount of tax on all other aircraft fuel that is computed on a basis [*in excess***  
 42 ***of nine cents*] of more than nine cents but not more than 11 cents per gallon, under ORS 319.020**  
 43 **(2); and**

44 (b) Any amount of tax on aircraft fuel usable in aircraft operated by turbine engines [*in excess*  
 45 *of one cent*] **of more than one cent but not more than three cents per gallon and any amount**

1 of tax on all other aircraft fuel [*in excess of nine cents*] **of more than nine cents but not more**  
 2 **than 11 cents** per gallon, that is deducted before the refunding of tax under ORS 319.330 (1).

3 (2) Applications for distributions under this section may not be approved unless the applicant  
 4 demonstrates a commitment to contribute at least five percent of the costs of the project to which  
 5 the application relates. The Oregon Department of Aviation shall adopt rules for purposes of this  
 6 subsection.

7 (3)(a) The State Aviation Board shall establish a review committee composed of one member  
 8 from each of the area commissions on transportation chartered by the Oregon Transportation Com-  
 9 mission.

10 (b) The review committee shall meet as necessary to review applications for distributions of  
 11 amounts pursuant to this section. The criteria specified in ORS 367.084 (3) apply to the review pro-  
 12 cess of the review committee.

13 (c) The review committee shall recommend applications to the State Aviation Board, which shall  
 14 select applications with the following priority:

15 (A) First, to applications filed pursuant to subsection (5)(a)(A) of this section;

16 (B) Second, to applications filed with respect to safety and infrastructure development; and

17 (C) Third, to applications filed with respect to aviation-related economic benefits related to air-  
 18 ports.

19 (4)(a) Five percent of the amounts described in subsection (1) of this section are appropriated  
 20 to the Oregon Department of Aviation for the costs of the department and the State Aviation Board  
 21 in administering this section.

22 (b) The remaining 95 percent of the amounts described in subsection (1) of this section shall be  
 23 distributed pursuant to subsections (5) to (7) of this section.

24 (5)(a) Fifty percent of the amounts described in subsection (4)(b) of this section shall be distrib-  
 25 uted for the following purposes:

26 (A) To assist airports in Oregon with match requirements for Federal Aviation Administration  
 27 Airport Improvement Program grants.

28 (B) To make grants for emergency preparedness and infrastructure projects, in accordance with  
 29 the Oregon Resilience Plan, including grants for emergency management plan development, seismic  
 30 studies and emergency generators and similar equipment.

31 (C) To make grants for:

32 (i) Services critical or essential to aviation, including, but not limited to, fuel, sewer, water and  
 33 weather equipment.

34 (ii) Aviation-related business development, including, but not limited to, hangars, parking for  
 35 business aircraft and related facilities.

36 (iii) Airport development for local economic benefit, including, but not limited to, signs and  
 37 marketing.

38 (b) Priority in distributing grants shall be given to projects for which applicants demonstrate a  
 39 commitment to contribute the greatest amounts toward the costs of the projects to which the ap-  
 40 plications relate.

41 (6) Twenty-five percent of the amounts described in subsection (4)(b) of this section shall be  
 42 distributed for the purpose of assisting commercial air service to rural Oregon.

43 (7) Twenty-five percent of the amounts described in subsection (4)(b) of this section shall be  
 44 distributed to state-owned airports for the purposes of:

45 (a) Safety improvements recommended by the State Aviation Board and local community air-

1 ports.

2 (b) Infrastructure projects at public use airports.

3 (8)(a) The State Aviation Board shall submit reports, in the manner provided in ORS 192.245 and  
4 paragraph (b) of this subsection, that describe in detail the projects for which applications have been  
5 submitted and approved, the airports affected, the names of the applicants and the persons who will  
6 perform the work proposed in the applications, the progress of projects for which applications have  
7 been approved and any other information the board considers necessary for a comprehensive anal-  
8 ysis of the implementation of this section.

9 (b) The reports described in paragraph (a) of this subsection shall be submitted:

10 (A) Not later than February 10 of each year to the committees of the Legislative Assembly re-  
11 lated to air transportation; and

12 (B) Not later than September 30 of each year to the interim committees of the Legislative As-  
13 sembly related to air transportation.

14 **SECTION 12.** Section 8, chapter 700, Oregon Laws 2015 is amended to read:

15 **Sec. 8.** (1) Section 7 [*of this 2015 Act*], **chapter 700, Oregon Laws 2015**, is repealed on January  
16 [2] 1, 2022.

17 (2) Amounts described in section 7 (1) [*of this 2015 Act*], **chapter 700, Oregon Laws 2015**, that  
18 are uncommitted on the date specified in subsection (1) of this section for distributions made pur-  
19 suant to section 7 (5) to (7) [*of this 2015 Act*], **chapter 700, Oregon Laws 2015**, may be expended  
20 as other aviation fuel tax revenues are expended.

21 **SECTION 13.** **This 2017 Act takes effect on the 91st day after the date on which the 2017**  
22 **regular session of the Seventy-ninth Legislative Assembly adjourns sine die.**

23