

Enrolled Senate Bill 1008

Sponsored by Senators DEMBROW, TAYLOR, FREDERICK, GELSER, Representatives GREENLICK, MALSTROM, NOSSE; Senators BURDICK, DEVLIN, Representatives GORSEK, HELM, HERNANDEZ, HOLVEY, KENY-GUYER, MARSH, PILUSO, POWER, REARDON, SANCHEZ, SOLLMAN

CHAPTER

AN ACT

Relating to diesel; creating new provisions; amending ORS 327.033, 468A.795, 468A.796, 468A.797, 468A.799, 468A.801 and 468A.803; and declaring an emergency.

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

OREGON CLEAN DIESEL PROGRAM (Definitions)

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

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

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

(1) “Alternative fuel” means biofuels, biogas, natural gas, liquefied petroleum gas, hydrogen and electricity.

(2) “Best available exhaust control technology” means the most effective exhaust controls to reduce diesel particulate that rely on passively regenerated diesel particulate control technology supported in a vehicle’s normal duty cycle.

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

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

(5) “Diesel engine” means a compression ignition engine.

(6) “Environmental Mitigation Trust Agreement” means the Environmental Mitigation Trust Agreement required by the Volkswagen “Clean Diesel” Marketing, Sales Practices and Products Liability Litigation partial consent decree dated October 25, 2016.

(7) “Equivalent equipment” means a piece of equipment that performs the same function and has the equivalent horsepower to a piece of equipment subject to a replacement.

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

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

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

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

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

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

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

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

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

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

(17)(a) "Replacement" means:

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

(B) To scrap a piece of equipment powered by a nonroad diesel engine and replace the equipment with equivalent equipment.

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

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

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

[(13)] (20) "Scrap" means to destroy, [and] render inoperable and recycle.

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

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

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

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

(1) "Alternative fuel" means biofuels, biogas, natural gas, liquefied petroleum gas, hydrogen and electricity.

(2) "Best available exhaust control technology" means the most effective exhaust controls to reduce diesel particulate that rely on passively regenerated diesel particulate control technology supported in a vehicle's normal duty cycle.

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

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

(5) "Diesel engine" means a compression ignition engine.

(6) "Environmental Mitigation Trust Agreement" means the Environmental Mitigation Trust Agreement required by the Volkswagen "Clean Diesel" Marketing, Sales Practices and Products Liability Litigation partial consent decree dated October 25, 2016.

(7) "Equivalent equipment" means a piece of equipment that performs the same function and has the equivalent horsepower to a piece of equipment subject to a replacement.

(8) "Equivalent motor vehicle" means a motor vehicle that performs the same function and is in the same weight class as a motor vehicle subject to a replacement.

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

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

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

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

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

(13) “Nonroad diesel engine” means a diesel engine of 25 horsepower or more that is not designed primarily to propel a motor vehicle on public highways.

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

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

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

(17)(a) “Replacement” means:

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

(B) To scrap a piece of equipment powered by a nonroad diesel engine and replace the equipment with equivalent equipment.

(b) “Replacement” does not mean ordinary maintenance, repair or replacement of a diesel engine.

[(11)] (18) “Repower” means to scrap an old diesel engine and [replace] substitute it with a new engine, a used engine or a remanufactured engine, or with electric motors, drives or fuel cells, with a minimum useful life of seven years.

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

[(13)] (20) “Scrap” means to destroy, [and] render inoperable and recycle.

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

(Clean Diesel Engine Fund; Uses)

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

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

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

(a) May not exceed the incremental cost of labor and hardware that the Department of Environmental Quality finds necessary to perform a qualifying repower or retrofit;

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

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

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

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

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

(a) May not exceed the incremental cost of labor and hardware that the Department of Environmental Quality finds necessary to perform a qualifying repower or retrofit;

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

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

SECTION 5. 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 diesel engine,]* **qualifying replacements, repowers and retrofits**, 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]* **require, at a minimum:**

[(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,]

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

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

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

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

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

(B) The equivalent equipment is powered by:

(i) A nonroad diesel engine, whether or not capable of being powered by alternative fuel, that meets or exceeds United States Environmental Protection Agency Tier 4 exhaust emission standards for nonroad compression ignition engines;

(ii) A nonroad engine capable of being powered by alternative fuel that meets or exceeds United States Environmental Protection Agency Tier 2 exhaust emission standards for nonroad spark ignition engines; or

(iii) A nonroad engine powered by electricity.

(c) For the qualifying repower of a nonroad diesel engine, that the repower will be accomplished using:

(A) A nonroad diesel engine, whether or not capable of being powered by alternative fuel, that is at least one tier higher than the engine to be scrapped, based on the United States Environmental Protection Agency tier standards for nonroad compression ignition engines;

(B) A nonroad engine capable of being powered by alternative fuel that meets or exceeds United States Environmental Protection Agency Tier 2 exhaust emission standards for nonroad spark ignition engines; or

(C) A nonroad engine powered by electricity.

(d) For the qualifying retrofit of a diesel engine, a resulting reduction of diesel particulate matter emissions by at least 85 percent when compared with the baseline emissions for the relevant engine year and application.

[(b)] **(e) That** 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]* **is included in the standards.**

(3) The commission by rule shall establish standards for the methods of recycling used for scrapping a motor vehicle, a piece of equipment powered by a nonroad diesel engine or a nonroad diesel engine after a qualifying replacement or repower.

[(c)] **(4) [A requirement that] A qualifying replacement, repower or retrofit [does] may not include the replacement, repower or retrofit of a motor vehicle, piece of equipment or engine for which a grant, loan or tax credit under ORS 468A.803 or section 12, chapter 855, Oregon Laws 2007, has previously been awarded or allowed, unless the replacement, repower or retrofit will reduce emissions further than the replacement, repower or retrofit funded by the previous grant, loan or tax credit.**

SECTION 6. 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 diesel engine] qualifying replacements, repowers and retrofits.**

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

[(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;]

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

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

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

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

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

(B) The equivalent equipment is powered by:

(i) A nonroad diesel engine, whether or not capable of being powered by alternative fuel, that meets or exceeds United States Environmental Protection Agency Tier 4 exhaust emission standards for nonroad compression ignition engines;

(ii) A nonroad engine capable of being powered by alternative fuel that meets or exceeds United States Environmental Protection Agency Tier 2 exhaust emission standards for nonroad spark ignition engines; or

(iii) A nonroad engine powered by electricity.

(c) For the qualifying repower of a nonroad diesel engine, that the repower will be accomplished using:

(A) A nonroad diesel engine, whether or not capable of being powered by alternative fuel, that is at least one tier higher than the engine to be scrapped, based on the United States Environmental Protection Agency tier standards for nonroad compression ignition engines;

(B) A nonroad engine capable of being powered by alternative fuel that meets or exceeds United States Environmental Protection Agency Tier 2 exhaust emission standards for nonroad spark ignition engines; or

(C) A nonroad engine powered by electricity.

(d) For the qualifying retrofit of a diesel engine, a resulting reduction of diesel particulate matter emissions by at least 85 percent when compared with the baseline emissions for the relevant engine year and application.

[(b)] **(e) That 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] is included in the standards.**

(3) The commission by rule shall establish standards for the methods of recycling used for scrapping a motor vehicle, a piece of equipment powered by a nonroad diesel engine or a nonroad diesel engine after a qualifying replacement or repower.

[c] (4) [A requirement that] A qualifying **replacement**, repower or retrofit [does] **may** not include the **replacement**, repower or retrofit of a **motor vehicle, piece of equipment** or engine for which a grant or loan under ORS 468A.803 has **previously** been awarded or allowed, unless the **replacement**, repower or retrofit will reduce emissions further than the **replacement**, repower or retrofit funded by the **previous** grant or loan.

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

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

(2) The Clean Diesel Engine Fund consists of:

(a) Funds appropriated by the Legislative Assembly;

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

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

(c) Moneys paid to the State of Oregon pursuant to the Environmental Mitigation Trust Agreement;

(d) Any other moneys received by the state for the purpose of providing financial and technical assistance to owners or operators of diesel engines for the purpose of reducing emissions from diesel engines; and

(e) Any moneys deposited in the fund from any other public or private source.

SECTION 8. 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 motor vehicles powered by diesel engines, and equipment powered by nonroad diesel engines, for up to 25 percent of the certified costs of qualifying replacements as described in ORS 468A.797 and 468A.799;

[a] **(b) 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] **(c) 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] **(d) 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.*]

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

(a) Benefit sensitive populations or areas with elevated concentrations of diesel particulate matter; or

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

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

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

(5) The department may not award a grant or loan for a replacement, repower or retrofit under subsection (1) of this section unless the grant or loan applicant demonstrates to the department's satisfaction that the resulting equivalent motor vehicle, equivalent equipment, repowered nonroad diesel engine or retrofitted diesel engine will undergo at least 50 percent of its use in Oregon, as measured by miles driven or hours operated, for the three years following the replacement, repower or retrofit.

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

(7) 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) to (6) of this section and ORS 468A.797 and 468A.799 do not apply to use of moneys in the fund received from the federal government.

(8) Any moneys received by the State of Oregon pursuant to a voluntary written agreement or a settlement approved in an administrative or judicial proceeding that are deposited in the Clean Diesel Engine Fund must be used by the department for activities consistent with the terms and conditions of the agreement or settlement. Subsections (1) to (6) of this section and ORS 468A.797 and 468A.799 do not apply to the use of moneys in the fund received pursuant to this subsection.

~~[(6)]~~ **(9) Except as provided in subsection (8) of this section**, the department may use the moneys in the Clean Diesel Engine Fund to pay expenses of the department in administering the program described in *[this section]* **ORS 468A.795 to 468A.803.**

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

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

SECTION 9. Sections 10 and 11 of this 2017 Act are added to and made a part of ORS 468A.795 to 468A.803.

(Environmental Mitigation Trust Agreement Moneys; Uses)

SECTION 10. (1) Subject to and consistent with ORS 468A.803 (8) and with the terms of the Environmental Mitigation Trust Agreement, any moneys received by the State of Oregon pursuant to the agreement that are deposited in the Clean Diesel Engine Fund under ORS 468A.801 must be used by the Department of Environmental Quality to award grants for the purpose of reducing nitrogen oxides emissions from diesel engines.

(2)(a) To the extent authorized by the agreement, the department shall allocate moneys awarded pursuant to subsection (1) of this section first to award grants to owners and operators of school buses to reduce emissions from at least 450 school buses powered by diesel engines operating in this state.

(b) In awarding grants under this subsection, the department shall begin by awarding grants to owners and operators of school buses powered by diesel engines that are of the median model year of school buses powered by diesel engines operating in this state, and shall proceed to award grants for school buses powered by diesel engines through the adjoining model years until the requirements of paragraph (a) of this subsection are met. A grant may be awarded under this subsection for any school bus powered by a diesel engine within the control of an owner or operator that meets the following conditions:

(A) The school bus has at least three years of remaining useful life;

(B) Use of the school bus has occurred in Oregon during the year preceding the date of the grant; and

(C) For the three years following receipt of a grant award, use of the school bus to which the owner or operator applies the grant will occur in Oregon.

(c) The grant amount per school bus awarded under this paragraph shall be for:

(A) \$50,000 or 30 percent of the cost to purchase a school bus that meets minimum standards adopted by the State Board of Education under ORS 820.100 for the applicable class or type of school bus, whichever is less; or

(B) Up to 100 percent of the cost to retrofit a school bus with emissions-reducing parts or technology that results in a reduction of diesel particulate matter emissions by at least 85 percent when compared with the baseline emissions for the relevant engine year and application.

(3) Except for awarding grants pursuant to subsection (2) of this section, the department may not award grants from the moneys described under subsection (1) of this section without prior approval by the Legislative Assembly by law.

(Rules)

SECTION 11. (1) The Environmental Quality Commission shall adopt rules necessary to implement ORS 468A.795 to 468A.803.

(2) Rules adopted under this section must include, but need not be limited to, rules that establish preferences for awarding grants and loans under ORS 468A.803 (1) based upon:

(a) A percentage of diesel engine use in Oregon;

(b) Whether a grant or loan applicant will provide matching funds;

(c) Whether scrapping, replacement, repowering or retrofitting an engine will benefit sensitive populations or areas with elevated concentrations of diesel particulate matter; or

(d) Other criteria as the commission may establish.

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

(4) The Department of Environmental Quality may perform activities necessary to ensure that recipients of grants and loans from the Clean Diesel Engine Fund comply with applicable requirements. If the department determines that a recipient has not complied with applicable

requirements, the department may order the recipient to refund all grant or loan moneys and may impose penalties pursuant to ORS 468.140.

(School Buses)

SECTION 12. ORS 468A.796 is amended to read:

468A.796. (1) All school buses *[with]* **powered by** diesel engines operated in Oregon must, by **January 1, 2025**, be:

[(1) Retrofitted with 2007 equivalent engines and 2007 fine particulate matter capture technology by January 1, 2017; or]

(a) Repowered with an engine meeting 2007 fine particulate matter federal exhaust emission standards for diesel heavy-duty engines as set forth in 40 C.F.R. 86.007-11;

(b) Retrofitted:

(A) If retrofitted prior to the effective date of this 2017 Act, with best available exhaust control technology; or

(B) If retrofitted on or after the effective date of this 2017 Act, with exhaust controls meeting 2007 fine particulate matter federal exhaust emission standards for diesel heavy-duty engines as set forth in 40 C.F.R. 86.007-11; or

[(2)] (c) Replaced with school buses manufactured on or after January 1, 2007[, by January 1, 2025].

(2) A school bus replaced under [this subsection] subsection (1)(c) of this section may not be used for transportation of any type.

SECTION 13. ORS 327.033 is amended to read:

327.033. (1) **As used in this section, “retrofit” and “Environmental Mitigation Trust Agreement” have the meanings given those terms in ORS 468A.795.**

[(1)] (2) Approved transportation costs shall be estimated for the year of distribution.

[(2)] (3) In determining approved transportation costs, the State Board of Education:

(a) Shall include depreciation of original cost to the school district of district-owned buses, not in excess of 10 percent per year; [and]

*(b) Shall include the costs to repower, retrofit[, as defined in ORS 468A.795,] or [to] replace school buses **powered by diesel engines** for the purpose of reducing or eliminating diesel engine emissions, except that the board may not include the costs paid with moneys received from the state by a school district from the Clean Diesel Engine Fund under ORS 468A.801 (2)(a) to repower, retrofit or [to] replace school buses **powered by diesel engines** for the purpose of reducing or eliminating diesel engine emissions[.]; and*

(c) Shall include costs to school buses powered by diesel engines as allowed in the Environmental Mitigation Trust Agreement, except that the board may not include costs paid from the Environmental Mitigation Trust Agreement in the calculation of the transportation grant computed as provided in ORS 327.013.

[(3)] (4) School districts shall account separately for those funds received from the State School Fund attributable to the costs included under subsection [(2)] (3) of this section, and expenditure of those funds shall be limited as follows:

(a) The expenditure of funds attributable to costs under subsection [(2)(a)] (3)(a) of this section shall be limited to the acquisition of new buses.

*(b) The expenditure of funds attributable to costs under subsection [(2)(b)] (3)(b) and (c) of this section shall be limited to the costs to repower, retrofit[, as defined in ORS 468A.795,] or [to] replace school buses **powered by diesel engines** for the purpose of reducing or eliminating diesel engine emissions.*

(5) The transportation grant computed as provided in ORS 327.013 when combined with costs paid from the Environmental Mitigation Trust Agreement to replace school buses powered by diesel engines may not exceed the purchase price of the buses for which the funds described in this subsection were received.

CAPTIONS

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

EMERGENCY CLAUSE

SECTION 15. This 2017 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect July 1, 2017.

Passed by Senate July 5, 2017

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House July 7, 2017

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Tina Kotek, Speaker of House

Received by Governor:

.....M,....., 2017

Approved:

.....M,....., 2017

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2017

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Dennis Richardson, Secretary of State