

Requested by Senator DEMBROW

**PROPOSED AMENDMENTS TO  
SENATE BILL 1008**

1 On page 1 of the printed bill, line 10, delete “marginalized” and insert  
2 “environmental justice”.

3 On page 2, delete lines 10 through 45 and delete pages 3 through 17 and  
4 insert:

5

6 **“ONE PERCENT FOR CLEAN DIESEL IN PUBLIC CONTRACTS**

7

8 **“SECTION 1. Section 2 of this 2017 Act is added to and made a part**  
9 **of the Public Contracting Code.**

10 **“SECTION 2. (1) As used in this section, ‘diesel engine’ has the**  
11 **meaning given that term in ORS 468A.795.**

12 **“(2) A public improvement contract may reserve an amount of up**  
13 **to one percent of the total contract price for the purpose of performing**  
14 **qualifying repowers or retrofits, as described in ORS 468A.797, 468A.799**  
15 **and 468A.803, of diesel engines that:**

16 **“(a) Will be used in the course of performing the contract; and**

17 **“(b) For the three years following a repower or retrofit, will un-**  
18 **dergo at least 50 percent of the diesel engine’s use in Oregon, as**  
19 **measured by miles driven or hours operated.**

20 **“(3) Subsection (2) of this section applies only to a public improve-**  
21 **ment contract for:**

1       “(a) A public improvement for which federal funds from congestion  
2 mitigation and air quality improvement grants are a source of fund-  
3 ing; or

4       “(b) A public improvement with a value of \$2 million or more and  
5 for which state funds constitute 30 percent or more of the value of the  
6 contract if the contracting agency is:

7       “(A) A state contracting agency; or

8       “(B) A local contracting agency located in an area designated by the  
9 United States Office of Management and Budget as a micropolitan or  
10 metropolitan statistical area with a population of 10,000 or more.

11       “(4) Any amount reserved in a public improvement contract under  
12 subsection (2) of this section that remains unexpended after com-  
13 pletion of and final payment for the public improvement contract shall  
14 be deposited in the Clean Diesel Engine Fund.

15       “SECTION 3. Section 2 of this 2017 Act applies to public improve-  
16 ment contracts advertised or solicited on or after January 1, 2018, or,  
17 for public improvement contracts that are not advertised or solicited,  
18 public improvement contracts that a contracting agency enters into  
19 on or after January 1, 2018.

20       “SECTION 4. Section 2 of this 2017 Act is repealed on January 2,  
21 2028.

22

## “OREGON CLEAN DIESEL PROGRAM

23

### “(Definitions)

24

25

26       “SECTION 5. ORS 468A.795 is amended to read:

27       “468A.795. As used in ORS 468A.795 to 468A.803 and sections 11 to 16,  
28 chapter 855, Oregon Laws 2007:

29       “[(1) ‘Combined weight’ has the meaning given that term in ORS 825.005.]

30       “(1) ‘Alternative fuel’ means biofuels, biogas, natural gas, liquefied

1 **petroleum gas, hydrogen and electricity.**

2 “(2) ‘Cost-effectiveness threshold’ means the cost, in dollars, per ton of  
3 diesel particulate matter reduced, as established by rule of the Environ-  
4 mental Quality Commission.

5 “(3) ‘Diesel engine’ means a compression ignition engine.

6 “(4) ‘Equivalent equipment’ means a piece of equipment that per-  
7 forms the same function and has the equivalent horsepower to a piece  
8 of equipment subject to a replacement.

9 “(5) ‘Equivalent motor vehicle’ means a motor vehicle that per-  
10 forms the same function and is in the same weight class as a motor  
11 vehicle subject to a replacement.

12 “(6) ‘Gross vehicle weight rating’ means the value specified by the  
13 manufacturer as the maximum loaded weight of a single or a combi-  
14 nation vehicle.

15 “[3] (7) ‘Heavy-duty truck’ means a motor vehicle or combination of ve-  
16 hicles operated as a unit that has a [*combined weight*] **gross vehicle weight**  
17 **rating** that is greater than 26,000 pounds.

18 “[4] (8) ‘Incremental cost’ means the cost of a qualifying **replacement**,  
19 repower or retrofit less a baseline cost that would otherwise be incurred in  
20 the normal course of business.

21 “[5] (9) ‘Medium-duty truck’ means a motor vehicle or combination of  
22 vehicles operated as a unit that has a [*combined weight*] **gross vehicle**  
23 **weight rating** that is greater than 14,000 pounds but less than or equal to  
24 26,000 pounds.

25 “[6] (10) ‘Motor vehicle’ has the meaning given that term in ORS  
26 825.005.

27 “(11) ‘Nonroad diesel engine’ means a diesel engine of 25 horsepower  
28 or more that is not designed primarily to propel a motor vehicle on  
29 public highways.

30 “[7] ‘Nonroad Oregon diesel engine’ means any Oregon diesel engine that

1 *was not designed primarily to propel a motor vehicle on public highways of*  
2 *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 re-  
14 place the motor vehicle with an equivalent motor vehicle; or

15 “(B) To scrap a piece of equipment powered by a nonroad diesel  
16 engine 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 it*  
20 *with*] **in its place substitute** a new engine, a used engine or a remanufac-  
21 tured engine, or [*with*] electric motors, drives or fuel cells, with a minimum  
22 useful life of 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 **and**  
29 **recycle**.

30 “[14] (18) ‘Truck’ means a motor vehicle or combination of vehicles op-

1 erated as a unit that has a [*combined weight*] **gross vehicle weight rating**  
2 that is greater than 14,000 pounds.

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

5 “468A.795. As used in ORS 468A.795 to 468A.803:

6 “[~~(1)~~] *‘Combined weight’* has the meaning given that term in ORS 825.005.]

7 **“(1) ‘Alternative fuel’ means biofuels, biogas, natural gas, liquefied**  
8 **petroleum gas, hydrogen and electricity.**

9 **“(2) ‘Cost-effectiveness threshold’** means the cost, in dollars, per ton of  
10 diesel particulate matter reduced, as established by rule of the Environ-  
11 mental Quality Commission.

12 **“(3) ‘Diesel engine’ means a compression ignition engine.**

13 **“(4) ‘Equivalent equipment’ means a piece of equipment that per-**  
14 **forms the same function and has the equivalent horsepower to a piece**  
15 **of equipment subject to a replacement.**

16 **“(5) ‘Equivalent motor vehicle’ means a motor vehicle that per-**  
17 **forms the same function and is in the same weight class as a motor**  
18 **vehicle subject to a replacement.**

19 **“(6) ‘Gross vehicle weight rating’ means the value specified by the**  
20 **manufacturer as the maximum loaded weight of a single or a combi-**  
21 **nation vehicle.**

22 “[~~(3)~~] **(7) ‘Heavy-duty truck’** means a motor vehicle or combination of ve-  
23 hicles operated as a unit that has a [*combined weight*] **gross vehicle weight**  
24 **rating** that is greater than 26,000 pounds.

25 “[~~(4)~~] **(8) ‘Incremental cost’** means the cost of a qualifying **replacement,**  
26 repower or retrofit less a baseline cost that would otherwise be incurred in  
27 the normal course of business.

28 “[~~(5)~~] **(9) ‘Medium-duty truck’** means a motor vehicle or combination of  
29 vehicles operated as a unit that has a [*combined weight*] **gross vehicle**  
30 **weight rating** that is greater than 14,000 pounds but less than or equal to

1 26,000 pounds.

2 “[6] (10) ‘Motor vehicle’ has the meaning given that term in ORS  
3 825.005.

4 “(11) ‘Nonroad diesel engine’ means a diesel engine of 25 horsepower  
5 or more that is not designed primarily to propel a motor vehicle on  
6 public highways.

7 “[7] ‘Nonroad Oregon diesel engine’ means any Oregon diesel engine that  
8 was not designed primarily to propel a motor vehicle on public highways of  
9 this state.]

10 “[8] ‘Oregon diesel engine’ means an engine at least 50 percent of the use  
11 of which, as measured by miles driven or hours operated, will occur in Oregon  
12 for the three years following the repowering or retrofitting of the engine.]

13 “[9] (12) ‘Oregon diesel truck engine’ means a diesel engine in a truck  
14 at least 50 percent of the use of which, as measured by miles driven or hours  
15 operated, has occurred in Oregon for the two years preceding the scrapping  
16 of the engine.

17 “[10] (13) ‘Public highway’ has the meaning given that term in ORS  
18 825.005.

19 “(14)(a) ‘Replacement’ means:

20 “(A) To scrap a motor vehicle powered by a diesel engine and re-  
21 place the motor vehicle with an equivalent motor vehicle; or

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

24 “(b) ‘Replacement’ does not mean ordinary maintenance, repair or  
25 replacement of a diesel engine.

26 “[11] (15) ‘Repower’ means to scrap an old diesel engine and [*replace it*  
27 *with*] **in its place substitute** a new engine, a used engine or a remanufac-  
28 tured engine, or [*with*] electric motors, drives or fuel cells, with a minimum  
29 useful life of seven years.

30 “[12] (16) ‘Retrofit’ means to equip a diesel engine with new emissions-

1 reducing parts or technology after the manufacture of the original engine.  
2 A retrofit must use the greatest degree of emissions reduction available for  
3 the particular application of the equipment retrofitted that meets the cost-  
4 effectiveness threshold.

5 “[~~(13)~~] (17) ‘Scrap’ means to destroy, [*and*] render inoperable **and**  
6 **recycle**.

7 “[~~(14)~~] (18) ‘Truck’ means a motor vehicle or combination of vehicles op-  
8 erated as a unit that has a [*combined weight*] **gross vehicle weight rating**  
9 that is greater than 14,000 pounds.

10

11

**“(School Buses)”**

12

13 **“SECTION 7.** ORS 468A.796 is amended to read:

14 “468A.796. All school buses with diesel engines operated in Oregon must  
15 be:

16 “(1) Retrofitted with 2007 equivalent engines and 2007 fine particulate  
17 matter capture technology by January 1, [~~2017~~] **2025**; or

18 “(2) Replaced with school buses manufactured on or after January 1, 2007,  
19 by January 1, 2025. A school bus replaced under this subsection may not be  
20 used for transportation of any type.

21

22

**“(Nonroad Diesel Engine Inventory)”**

23

24 **“SECTION 8.** Section 9 of this 2017 Act is added to and made a part  
25 **of ORS 468A.795 to 468A.803.**

26 **“SECTION 9.** (1) The Department of Environmental Quality shall  
27 **establish and maintain a statewide inventory of nonroad diesel engines**  
28 **used in Oregon. The inventory must identify nonroad diesel engines**  
29 **by engine model year, horsepower and annual usage. The Environ-**  
30 **mental Quality Commission may adopt rules necessary for implemen-**

1 **tation of this section.**

2 **“(2) The inventory required by this section may not include:**

3 **“(a) Motor vehicles registered as farm vehicles under the provisions**  
4 **of ORS 805.300.**

5 **“(b) Farm tractors, as defined in ORS 801.265.**

6 **“(c) Implements of husbandry, as defined in ORS 801.310.**

7 **“(d) Motor trucks, as defined in ORS 801.355, used primarily to**  
8 **transport logs.**

9 **“SECTION 10. The Department of Environmental Quality shall es-**  
10 **tablish the initial inventory of nonroad diesel engines used in Oregon**  
11 **required by section 9 of this 2017 Act no later than July 1, 2018.**

12

13 **“(Nonroad Diesel Engine Registration)**

14

15 **“SECTION 11. Sections 12 and 13 of this 2017 Act are added to and**  
16 **made a part of ORS 468A.795 to 468A.803.**

17 **“SECTION 12. (1) A person may not operate a nonroad diesel engine**  
18 **in this state without first registering the engine with the Department**  
19 **of Environmental Quality under section 13 of this 2017 Act.**

20 **“(2) This section does not apply to:**

21 **“(a) Motor vehicles registered as farm vehicles under the provisions**  
22 **of ORS 805.300.**

23 **“(b) Farm tractors, as defined in ORS 801.265.**

24 **“(c) Implements of husbandry, as defined in ORS 801.310.**

25 **“(d) Motor trucks, as defined in ORS 801.355, used primarily to**  
26 **transport logs.**

27 **“SECTION 13. (1) The Department of Environmental Quality shall**  
28 **register and provide a registration renewal for an increment of one**  
29 **year or less for a nonroad diesel engine owned or operated by a person**  
30 **who pays the appropriate registration or renewal fee.**



1       “(2)(a) The department may appoint agents to register nonroad  
2 diesel engines. Agents shall register nonroad diesel engines in accord-  
3 ance with procedures prescribed by the Environmental Quality Com-  
4 mission by rule and shall charge and collect the fees prescribed by law.

5       “(b) The department may authorize an agent who is not a depart-  
6 ment employee to charge a service fee of \$2, in addition to the regis-  
7 tration fee, for the registration service performed by the agent.

8       “(c) The department shall supply agents with registration forms for  
9 nonroad diesel engines.

10       “(3) The commission shall establish by rule a schedule of fees for  
11 the issuance and renewal of nonroad diesel engine registrations. The  
12 fees established under the schedule shall be based on the costs of the  
13 department in carrying out the provisions of this section and section  
14 12 of this 2017 Act.

15       “(4) The fees collected under this section shall be paid into the State  
16 Treasury for deposit in the Clean Diesel Engine Fund, to be used only  
17 for paying the department’s expenses in administering and enforcing  
18 this section and section 12 of this 2017 Act.

19  
20                               “(Diesel Engine Emission Standards)  
21

22       “SECTION 14. Sections 15 and 16 of this 2017 Act are added to and  
23 made a part of ORS 468A.795 to 468A.803.

24       “SECTION 15. (1) The Environmental Quality Commission by rule  
25 shall establish diesel engine emission standards for medium-duty  
26 trucks and heavy-duty trucks.

27       “(2) The standards adopted by the commission under this section  
28 must require that:

29       “(a) On and after January 1, 2018, a medium-duty truck or heavy-  
30 duty truck operating in Oregon may not be replaced with a truck with

1 a 2006 model year or older engine; and

2 “(b) By January 1, 2028, all medium-duty trucks and heavy-duty  
3 trucks operating in Oregon must have a 2007 model year or newer en-  
4 gine.

5 “(3) Rules adopted under this section must allow for owners and  
6 operators of medium-duty trucks and heavy-duty trucks to meet the  
7 diesel engine emission standards through alternative compliance  
8 options that may include, but need not be limited to:

9 “(a) A fleet averaging option.

10 “(b) Options that provide flexibility for small fleets.

11 “(c) Provisions that allow owners and operators to obtain compli-  
12 ance credits.

13 “(d) Compliance extensions for individual trucks that meet eligibil-  
14 ity requirements adopted by the commission by rule.

15 “(e) Compliance through retrofitting with exhaust controls that  
16 reduce diesel particulate emissions by at least 85 percent when com-  
17 pared with the baseline emissions for the relevant engine year and  
18 application.

19 “(4) Before adopting rules under this section, the commission shall  
20 consider regulations adopted by the State of California for reducing  
21 diesel engine emissions from in-use medium-duty trucks and heavy-  
22 duty trucks.

23 “(5) The following classes of vehicles are exempt from rules adopted  
24 under this section:

25 “(a) Motor vehicles registered as farm vehicles under the provisions  
26 of ORS 805.300.

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

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

29 “(d) Motor vehicles used exclusively as training vehicles, as deter-  
30 mined by the commission by rule.

1       “(e) Any other medium-duty trucks or heavy-duty trucks exempted  
2 from the diesel engine emission standards by the commission by rule.

3       “SECTION 16. (1) The Environmental Quality Commission shall  
4 adopt by rule nonroad diesel engine emission standards.

5       “(2) The standards must include, but not be limited to, standards  
6 that prohibit, beginning on January 1, 2018, the addition to a fleet of  
7 a nonroad piece of equipment that is powered by a nonroad diesel en-  
8 gine that does not meet or exceed certain tier standards for nonroad  
9 diesel exhaust emissions as adopted by the United States Environ-  
10 mental Protection Agency.

11       “(3) The standards adopted under this section, and implementation  
12 and enforcement of the standards, must be consistent with the re-  
13 quirements of section 209(e) of the federal Clean Air Act (P.L. 88-206  
14 as amended).

15       “(4) Before adopting rules under this section, the commission shall  
16 consider regulations adopted by the State of California for reducing  
17 nonroad diesel engine emissions.

18  
19                               “(Clean Diesel Engine Fund Uses)  
20

21       “SECTION 17. ORS 468A.797 is amended to read:

22       “468A.797. (1) The Environmental Quality Commission by rule shall es-  
23 tablish standards related to the certified cost necessary to perform a quali-  
24 fying **replacement**, repower or retrofit, including but not limited to rules  
25 establishing the certified cost for purposes of the tax credit established in  
26 section 12, chapter 855, Oregon Laws 2007.

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

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

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

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

6 “**SECTION 18.** ORS 468A.797, as amended by section 7a, chapter 855,  
7 Oregon Laws 2007, is amended to read:

8 “468A.797. (1) The Environmental Quality Commission by rule shall es-  
9 tablish standards related to the certified cost necessary to perform a quali-  
10 fying **replacement**, repower or retrofit.

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

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

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

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

20 “**SECTION 19.** ORS 468A.799 is amended to read:

21 “468A.799. (1) The Environmental Quality Commission by rule shall es-  
22 tablish standards for [*the qualifying repower of a nonroad Oregon diesel en-*  
23 *gine or retrofit of an Oregon diesel engine,*] **qualifying replacements,**  
24 **repowers and retrofits**, including but not limited to rules establishing re-  
25 power or retrofit qualifications for purposes of the tax credit established in  
26 section 12, chapter 855, Oregon Laws 2007.

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

29 “[*a*] *A requirement for the reduction of diesel particulate matter emissions*  
30 *by at least 25 percent compared with the baseline emissions for the relevant*

1 *engine year and application;]*

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

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

6 **“(B) The engine model year of the equivalent motor vehicle is 2007**  
7 **or newer.**

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

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

12 **“(B) The equivalent equipment is powered by:**

13 **“(i) A nonroad diesel engine that meets or exceeds the United States**  
14 **Environmental Protection Agency Tier 4 standards for nonroad diesel**  
15 **exhaust emissions; or**

16 **“(ii) A nonroad engine capable of being powered by alternative fuel.**

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

19 **“(A) A higher tier engine than the engine to be scrapped, based on**  
20 **the United States Environmental Protection Agency tier standards for**  
21 **nonroad diesel exhaust emissions; or**

22 **“(B) A nonroad engine capable of being powered by alternative fuel.**

23 **“(d) For the qualifying retrofit of a diesel engine, a resulting re-**  
24 **duction of diesel particulate matter emissions by at least 85 percent**  
25 **when compared with the baseline emissions for the relevant engine**  
26 **year and application.**

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

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

5       “[(c)] (4) [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 20.** 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 es-  
15 tablish standards for [*the qualifying repower of a nonroad Oregon diesel en-*  
16 *gine or retrofit of an Oregon diesel engine*] **qualifying replacements,**  
17 **repowers 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 2007**  
28 **or newer.**

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

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

3       “(B) The equivalent equipment is powered by:

4       “(i) A nonroad diesel engine that meets or exceeds the United States  
5 Environmental Protection Agency Tier 4 standards for nonroad diesel  
6 exhaust emissions; or

7       “(ii) A nonroad engine capable of being powered by alternative fuel.

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

10       “(A) A higher tier engine than the engine to be scrapped, based on  
11 the United States Environmental Protection Agency tier standards for  
12 nonroad diesel exhaust emissions; or

13       “(B) A nonroad engine capable of being powered by alternative fuel.

14       “(d) For the qualifying retrofit of a diesel engine, a resulting re-  
15 duction of diesel particulate matter emissions by at least 85 percent  
16 when compared with the baseline emissions for the relevant engine  
17 year and application.

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

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

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

1 **replacement**, repower or retrofit funded by the **previous** grant or loan.

2 **“SECTION 21.** ORS 468A.801 is amended to read:

3 “468A.801. (1) The Clean Diesel Engine Fund is established in the State  
4 Treasury separate and distinct from the General Fund. Interest earned by  
5 the Clean Diesel Engine Fund shall be credited to the fund. The moneys in  
6 the fund are continuously appropriated to the Department of Environmental  
7 Quality to be used for the purposes described in ORS 468A.803.

8 “(2) The Clean Diesel Engine Fund consists of:

9 “(a) Funds appropriated by the Legislative Assembly;

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

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

16 **“(c) Any other moneys received by the state for providing financial**  
17 **or technical assistance to owners or operators of diesel engines for the**  
18 **purpose of reducing diesel engine emissions; and**

19 **“(d) Any other moneys deposited in the fund from any sources.**

20 **“SECTION 22.** ORS 468A.803 is amended to read:

21 “468A.803. (1) The Department of Environmental Quality shall use the  
22 moneys in the Clean Diesel Engine Fund to award:

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

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

30 *“[(b)] (c) Grants and loans to the owners and operators of nonroad*



1 [Oregon] diesel engines for up to 25 percent of the certified costs of qualify-  
2 ing repowers as described in ORS 468A.797 and 468A.799; [and]

3 “[c)] (d) Grants to the owners of Oregon diesel truck engines to scrap  
4 those engines[.]; and

5 “(e) **Other financial incentives, as developed by the department by**  
6 **rule, for owners and operators of diesel engines to achieve compliance**  
7 **with the diesel engine emission standards adopted by the Environ-**  
8 **mental Quality Commission under sections 15 and 16 of this 2017 Act.**

9 “[2) *Subject to and consistent with federal law, any moneys received from*  
10 *the federal government that are deposited in the Clean Diesel Engine Fund*  
11 *under ORS 468A.801 (2)(b) must be used for initiatives to reduce emissions*  
12 *from diesel engines. Subsections (1), (3) to (5) and (7) of this section and ORS*  
13 *468A.797 and 468A.799 do not apply to use of moneys in the Clean Diesel En-*  
14 *gine Fund received from the federal government.]*

15 “[3)] (2) In determining the amount of a grant or loan under this section,  
16 the department must reduce the incremental cost of a qualifying **replace-**  
17 **ment**, repower or retrofit by the value of any existing financial incentive  
18 that directly reduces the cost of the qualifying **replacement**, repower or  
19 retrofit, including tax credits, other grants or loans, or any other public fi-  
20 nancial assistance.

21 “[4)] (3) The department may certify third parties to perform qualifying  
22 **replacements**, repowers and retrofits and may contract with third parties  
23 to perform such services for the certified costs of qualifying **replacements**,  
24 repowers and retrofits. The department may also contract with institutions  
25 of higher education or other public bodies as defined by ORS 174.109 to train  
26 and certify third parties to perform qualifying **replacements**, repowers and  
27 retrofits.

28 “(4) **The department may not award a grant, loan or other financial**  
29 **incentive under subsection (1)(a), (b), (c) or (e) of this section unless**  
30 **the applicant for a grant, loan or other financial incentive demon-**

1 **strates to the department’s satisfaction that the resulting equivalent**  
2 **motor vehicle, equivalent equipment, repowered nonroad diesel engine**  
3 **or retrofitted diesel engine will undergo at least 50 percent of its use**  
4 **in Oregon, as measured by miles driven or hours operated, for the**  
5 **three years following the completion of the activity for which the**  
6 **grant, loan or other financial incentive was awarded.**

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

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

25 “(7) **Any moneys received by the State of Oregon pursuant to a**  
26 **voluntary written agreement or a settlement approved in an adminis-**  
27 **trative or judicial proceeding that are deposited in the Clean Diesel**  
28 **Engine Fund must be used by the department for activities consistent**  
29 **with the terms and conditions of the agreement or settlement. Sub-**  
30 **sections (1) to (5) of this section and ORS 468A.797 and 468A.799 do not**

1 **apply to the use of moneys in the fund received pursuant to this sub-**  
2 **section.**

3 “[~~(6)~~] (8) **Except as provided in subsection (7) of this section,** the de-  
4 partment may use the moneys in the Clean Diesel Engine Fund to pay ex-  
5 penses of the department in administering [*the program described in this*  
6 *section*] **ORS 468A.795 to 468A.803.**

7 “[~~(7)~~] *The commission shall adopt rules to implement this section and ORS*  
8 *468A.801, including but not limited to establishing preferences for grant and*  
9 *loan awards based upon percentage of engine use in Oregon, whether a grant*  
10 *or loan applicant will provide matching funds, whether scrapping, repowering*  
11 *or retrofitting an engine will benefit sensitive populations or areas with ele-*  
12 *vated concentrations of diesel particulate matter, or such other criteria as the*  
13 *commission may establish. The rules adopted by the commission shall reserve*  
14 *a portion of the financial assistance available each year for applicants that*  
15 *own or operate a small number of Oregon diesel engines or Oregon diesel truck*  
16 *engines and shall provide for simplified access to financial assistance for those*  
17 *applicants.]*

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

23 **“SECTION 23. Sections 24 and 25 of this 2017 Act are added to and**  
24 **made a part of ORS 468A.795 to 468A.803.**

25 **“SECTION 24. (1) The Environmental Quality Commission shall**  
26 **adopt rules to implement ORS 468A.801 and 468A.803, including but not**  
27 **limited to rules that establish preferences for awarding grants, loans**  
28 **and other financial incentives under ORS 468A.803 (1).**

29 **“(2)(a) Rules adopted under this section shall give first preference**  
30 **to awarding grants, loans and financial incentives in a manner that**

1 will benefit areas where diesel emissions are of the most concern. In  
2 identifying an area where diesel engine emissions are of the most  
3 concern, the commission shall rely on the following factors:

4 “(A) Whether the area has concentrations of air contaminants that  
5 exceed any ambient benchmark concentrations for air contaminants  
6 established by rule by the commission under ORS 468A.025;

7 “(B) The prevalence of sensitive populations in the area;

8 “(C) Whether the area has elevated concentrations of diesel  
9 particulate matter; and

10 “(D) The area’s present and projected population density.

11 “(b) Additional preferences shall be based on factors including but  
12 not limited to:

13 “(A) The percentage of diesel engine use in Oregon, as measured  
14 by miles driven or hours operated;

15 “(B) Whether an applicant will provide matching funds; and

16 “(C) Whether an applicant is a minority-owned business, woman-  
17 owned business or business that a service-disabled veteran owns as  
18 those terms are defined in ORS 200.005.

19 “(3) Rules adopted by the commission under this section must re-  
20 serve a portion of the financial assistance available each year for ap-  
21 plicants that own or operate a small number of diesel engines or  
22 Oregon diesel truck engines, and must provide for simplified access to  
23 financial assistance for those applicants.

24 “(4) The Department of Environmental Quality may perform activ-  
25 ities necessary to ensure that recipients of financial assistance from  
26 the Clean Diesel Engine Fund comply with applicable requirements.  
27 If the department determines that a recipient has not complied with  
28 applicable requirements, the department may order the recipient to  
29 refund all financial assistance moneys and may impose civil penalties  
30 pursuant to ORS 468.140.

1           “(Environmental Mitigation Trust Agreement Funds, Uses)

2  
3           **“SECTION 25. (1) Subject to and consistent with the terms of the**  
4 **Environmental Mitigation Trust Agreement required by the**  
5 **Volkswagen ‘Clean Diesel’ Marketing, Sales Practices and Products**  
6 **Liability Litigation partial consent decree dated October 25, 2016, any**  
7 **moneys received by the State of Oregon pursuant to the agreement**  
8 **that are deposited in the Clean Diesel Engine Fund under ORS 468A.803**  
9 **must be used by the Department of Environmental Quality to award**  
10 **grants for the purpose of reducing nitrogen oxides emissions from**  
11 **diesel engines. ORS 468A.803 (1) to (7) and ORS 468A.797 and 468A.799**  
12 **do not apply to use of moneys in the Clean Diesel Fund received pur-**  
13 **suant to the agreement.**

14           **“(2) To the extent authorized by the agreement, the department**  
15 **shall allocate moneys awarded pursuant to this subsection among:**

16           **“(a) Owners and operators of school buses powered by diesel engines**  
17 **for 30 percent of certified replacement costs, beginning with the oldest**  
18 **diesel powered school buses in the state and proceeding until at least**  
19 **450 buses have been replaced; and**

20           **“(b) Owners and operators of the following categories of motor ve-**  
21 **hicles powered by diesel engines, subject to the preferences for grant**  
22 **awards established under section 24 of this 2017 Act:**

23           **“(A) Drayage trucks.**

24           **“(B) Delivery trucks.**

25           **“(C) Waste hauling trucks.**

26           **“(D) Transit buses.**

27           **“(E) Vehicles owned and operated by a local government.**

28           **“(F) Airport ground support equipment.**

29           **“(3) The department may not award a grant under this section to**  
30 **the owner or operator of a motor vehicle powered by a diesel engine**

1 unless the following criteria are met:

2 “(a) Use of the motor vehicle has occurred in Oregon during the  
3 year preceding the date of the grant.

4 “(b) The motor vehicle is authorized for use in this state.

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

9 “(d) The grant will not exceed the cost-effectiveness threshold  
10 where, notwithstanding ORS 468A.795, the ‘cost-effectiveness  
11 threshold’ for purposes of this paragraph means the cost in dollars per  
12 ton of diesel particulate and nitrogen oxides reduced, as established  
13 by rule of the commission.

14 “(e) Any other criteria the department deems necessary to ensure  
15 that a grant award will result in a reduction in emissions from diesel  
16 engines in this state.

17

18 **“REPEAL OF STATE PREEMPTION OF LOCAL REGULATION OF  
19 IDLING BY PRIMARY ENGINES IN COMMERCIAL VEHICLES**

20

21 **“SECTION 26. ORS 825.615 is repealed.**

22

23 **“CONFORMING AMENDMENTS TO TAX CREDIT APPLICABLE  
24 TO PAST TAX YEARS**

25

26 **“SECTION 27. Section 12, chapter 855, Oregon Laws 2007, is amended to  
27 read:**

28 **“Sec. 12.** (1) A personal income or corporate income or excise taxpayer  
29 is allowed a credit against the taxes that are otherwise due under ORS  
30 chapter 316, 317 or 318 for the certified costs of a repower of a nonroad

1 [Oregon] diesel engine or retrofit of [an Oregon] a diesel engine that occurs  
2 after [the effective date of this 2007 Act] **September 27, 2007**, if:

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

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

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

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

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

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

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

20 “(4) Any tax credit that is allowed under this section, but limited by  
21 subsection (3) of this section, and that is not used by the taxpayer in a par-  
22 ticular tax year may be carried forward and offset against the taxpayer’s tax  
23 liability as prescribed in subsection (3) of this section for the next succeeding  
24 tax year. Any credit remaining unused in the next succeeding tax year may  
25 be carried forward and offset against the taxpayer’s tax liability as pre-  
26 scribed in subsection (3) of this section for the second succeeding tax year.  
27 Any credit remaining unused in the second succeeding tax year may be car-  
28 ried forward and offset against the taxpayer’s tax liability as prescribed in  
29 subsection (3) of this section for the third succeeding tax year, but may not  
30 be carried forward for any tax year thereafter.

1       “(5) The credit allowed under this section is not in lieu of any depreci-  
2 ation or amortization deduction for the engine to which the taxpayer other-  
3 wise may be entitled for purposes of ORS chapter 316, 317 or 318. The  
4 taxpayer’s adjusted basis for determining gain or loss may not be decreased  
5 by any tax credits allowed under this section.

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

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

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

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

23       “(b) If a change in the taxable year of a taxpayer occurs as described in  
24 ORS 314.085, or if the Department of Revenue terminates the taxpayer’s  
25 taxable year under ORS 314.440, the credit allowed by this section shall be  
26 prorated or computed in a manner consistent with ORS 314.085.

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

30       “(8) The taxpayer shall claim the credit on a form prescribed by the De-



1 partment of Revenue containing the information required by the Department  
2 of Revenue. The taxpayer shall maintain the tax credit cost certification is-  
3 sued by the Department of Environmental Quality under section 16 [*of this*  
4 *2007 Act*], **chapter 855, Oregon Laws 2007**, in the records of the taxpayer  
5 for the length of time prescribed by the Department of Revenue and shall  
6 provide a copy of the cost certification to the Department of Revenue if re-  
7 quested.

8 “(9) A taxpayer may not claim a credit under this section and ORS 315.304  
9 with respect to the same diesel engine or group of diesel engines. A taxpayer  
10 may claim a credit under this section and under ORS [469.185 to 469.225]  
11 **469B.130 to 469B.169** with respect to the same diesel engine or group of  
12 diesel engines if the taxpayer and diesel engines otherwise meet the re-  
13 quirements to be allowed a tax credit under ORS [469.185 to 469.225] **469B.130**  
14 **to 469B.169.**

15

16

#### “APPROPRIATION

17

18 “**SECTION 28.** In addition to and not in lieu of any other appropri-  
19 ation, there is appropriated to the Department of Environmental  
20 Quality, for the biennium beginning July 1, 2017, out of the General  
21 Fund, the amount of \$\_\_\_\_ for the purpose of completing the initial  
22 inventory required by section 9 of this 2017 Act.

23

24

#### “CAPTIONS

25

26 “**SECTION 29.** The unit captions used in this 2017 Act are provided  
27 only for the convenience of the reader and do not become part of the  
28 statutory law of this state or express any legislative intent in the  
29 enactment of this 2017 Act.

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**“OPERATIVE DATE**

**“SECTION 30. (1) Sections 1 to 4 and 11 to 16 of this 2017 Act become operative on January 1, 2018.**

**“(2) The Environmental Quality Commission and the Department of Environmental Quality may take any action before the operative date specified in subsection (1) of this section that is necessary for the commission and the department to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the commission and the department by sections 1 to 4 and 11 to 16 of this 2017 Act.**

**“EMERGENCY CLAUSE**

**“SECTION 31. 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.”.**

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