

Requested by HOUSE COMMITTEE ON ENERGY AND ENVIRONMENT

**PROPOSED AMENDMENTS TO
HOUSE BILL 2748**

1 On page 1 of the printed bill, line 2, after the semicolon delete the rest
2 of the line and line 3 and insert “creating new provisions; amending ORS
3 468A.467, 468A.485, 468A.490, 468A.505 and 468A.515; and declaring an emer-
4 gency.”.

5 Delete lines 5 through 29 and delete page 2 and insert:

6 **“SECTION 1.** ORS 468A.485 is amended to read:

7 “468A.485. As used in ORS 468A.460 to 468A.515:

8 **“(1) ‘Local woodstove replacement program’ means a program op-**
9 **erated by a local government, regional authority or nonprofit organ-**
10 **ization for reducing the emission of air contaminants from solid fuel**
11 **burning devices.**

12 “[~~(1)~~] **(2)** ‘Masonry heater’ has the meaning given that term in the
13 American Society for Testing and Materials (ASTM) E1602-03, Standard
14 Guide for Construction of Solid Fuel Burning Masonry Heaters, as in effect
15 on January 1, 2010, or the meaning given that term by rule of the Environ-
16 mental Quality Commission.

17 “[~~(2)~~] **(3)** ‘Pellet stove’ means a heating device that uses wood pellets, or
18 other biomass fuels designed for use in pellet stoves, as its primary source
19 of fuel.

20 **“(4) ‘Regional authority’ has the meaning given that term in ORS**
21 **468A.100.**

1 “[3] (5) ‘Residential structure’ has the meaning given that term in ORS
2 701.005.

3 “[4(a)] (6)(a) ‘Solid fuel burning device’ means any device that burns
4 wood, coal or other nongaseous or nonliquid fuels for aesthetic, space-
5 heating or water-heating purposes in a private residential structure or a
6 commercial establishment and that has a heat output of less than one million
7 British thermal units per hour.

8 “(b) ‘Solid fuel burning device’ does not include:

9 “(A) Masonry fireplaces built on homesites, or factory-built fireplaces,
10 that are designed to be used with an open combustion chamber, that are
11 without features to control air-to-fuel ratios and that meet minimum emis-
12 sion performance standards adopted by the commission, or all masonry fire-
13 places and factory-built fireplaces if the commission does not adopt any
14 standards;

15 “(B) Woodstoves built before 1940 that have an ornate construction and
16 a current market value substantially higher than a common woodstove
17 manufactured during the same period;

18 “(C) Pellet stoves that meet minimum emission performance standards
19 adopted by the commission, or all pellet stoves if the commission does not
20 adopt any standards;

21 “(D) Masonry heaters that meet minimum emission performance standards
22 adopted by the commission, or all masonry heaters if the commission does
23 not adopt any standards;

24 “(E) Central, wood-fired furnaces that are indoors, ducted and
25 thermostatically controlled, that have a dedicated cold air inlet and a dedi-
26 cated hot air outlet that connect to the heating ductwork for the entire
27 residential structure and that meet minimum emission performance standards
28 adopted by the commission, or all central, wood-fired furnaces if the com-
29 mission does not adopt any standards; and

30 “(F) Other solid fuel burning devices identified in rules adopted by the

1 commission.

2 “[5)(a)] (7)(a) ‘Trash burner’ means any equipment that is used to dispose
3 of waste by burning.

4 “(b) ‘Trash burner’ does not include an air contamination source that has
5 been issued an air quality permit as described in ORS 468A.040.

6 “[6)] (8) ‘Treated wood’ means wood of any species that has been
7 chemically impregnated, painted or similarly modified to prevent weathering
8 and deterioration.

9 **“SECTION 2.** ORS 468A.490 is amended to read:

10 “468A.490. (1) There is established within the State Treasury a fund
11 known as the Residential Solid Fuel Heating Air Quality Improvement Fund,
12 separate and distinct from the General Fund.

13 “(2) All moneys appropriated or received [*as gifts or grants for the pur-*
14 *poses of this section]* **from any source, public or private, for the purpose**
15 **of reducing the emission of air contaminants from solid fuel burning**
16 **devices** shall be credited to the Residential Solid Fuel Heating Air Quality
17 Improvement Fund.

18 “(3) The State Treasurer may invest and reinvest the moneys in the fund
19 as provided in ORS 293.701 to 293.857. Interest from the moneys deposited in
20 the fund and earnings from investment of the moneys in the fund shall ac-
21 crue to the fund.

22 “(4) All moneys in the fund are continuously appropriated to the Depart-
23 ment of Environmental Quality to:

24 “(a) Pay all costs incurred by the department for evaluating projects and
25 programs, including projects and programs proposed by local communities
26 or qualifying organizations, for project management and oversight of funds
27 awarded for projects and programs selected in accordance with this section
28 and for documenting the benefit to air quality from such projects;

29 “(b) Fund the program established under subsection (5) of this section;

30 “(c) Fund activities to enhance enforcement of ORS 468A.460 to 468A.515;

1 “(d) Fund public education programs related to compliance with ORS
2 468A.460 to 468A.515; [and]

3 “(e) Fund public education programs related to the benefits of the use of
4 solid fuel burning devices certified pursuant to ORS 468A.460 to 468A.515[.];
5 **and**

6 **“(f) Fund the award of grants by the department under section 4**
7 **of this 2017 Act.**

8 “(5) The department shall use moneys available under subsection (4) of
9 this section to establish a program designed to reduce the emission of air
10 contaminants by providing grants, loans, **rebates** or other subsidies for the
11 replacement or removal of solid fuel burning devices that were not certified
12 by the department pursuant to ORS 468A.465. In addition to any other re-
13 quirements established by rules adopted by the Environmental Quality Com-
14 mission, the program shall provide that:

15 “(a) All forms of new high-efficiency, low air contaminant-emitting heat-
16 ing systems are allowed, except vent-free heating appliances;

17 “(b) Any solid fuel burning device removed under the program must be
18 destroyed;

19 “(c) Any replacement device selected under the program must be installed
20 in conformance with building code requirements and the manufacturer’s
21 specifications including but not limited to venting specifications; and

22 “(d) To be eligible, program participants shall participate in any home
23 energy audit program provided at no charge to the homeowner and shall
24 obtain all information available regarding subsidies for cost-effective
25 weatherization. The department shall make the information required in this
26 subsection readily available to program participants.

27 “(6) The department may enter into an agreement with a local government
28 or a regional authority in order to implement the program established under
29 subsection (5) of this section.

30 **“SECTION 3. Sections 4 and 5 of this 2017 Act are added to and**

1 made a part of ORS 468A.460 to 468A.515.

2 **“SECTION 4. (1) The Department of Environmental Quality shall**
3 **award grants to local governments, regional authorities and nonprofit**
4 **organizations to operate local woodstove replacement programs. The**
5 **Environmental Quality Commission may adopt rules necessary to im-**
6 **plement the provisions of this section and section 5 of this 2017 Act.**

7 **“(2) The department may not disburse grant funds under this sec-**
8 **tion unless the department and the intended grant award recipient**
9 **first enter into a grant agreement. The grant agreement must:**

10 **“(a) Provide that the term of the grant agreement shall be a period**
11 **specified in the agreement that is at least two years but not more than**
12 **four years.**

13 **“(b) Require that at least 70 percent of the grant funds must be used**
14 **to provide for:**

15 **“(A) The removal from residential structures of solid fuel burning**
16 **devices that were not certified by the department pursuant to ORS**
17 **468A.465; and**

18 **“(B) The replacement in residential structures of solid fuel burning**
19 **devices with new high-efficiency, low air contaminant-emitting heat-**
20 **ing systems other than vent-free heating appliances.**

21 **“(c) Provide that up to 30 percent of the grant funds may be used**
22 **for other activities in support of the local woodstove replacement**
23 **program that may include, but need not be limited to, public education**
24 **programs and outreach, home weatherization activities, provision of**
25 **lower air contaminant-emitting fuel for solid fuel burning devices or**
26 **purchase or provision of moisture meters.**

27 **“(d) Except as provided in subsection (3) of this section, prohibit**
28 **grant funds from being used to cover the administrative costs of the**
29 **local woodstove replacement program.**

30 **“(e) Require that any solid fuel burning devices removed pursuant**

1 to the local woodstove replacement program must be destroyed.

2 “(f) Require the grant award recipient to provide a matching con-
3 tribution as provided in subsection (4) of this section.

4 “(g) Require the grant award recipient to report to the department
5 on the local woodstove replacement program not less than once every
6 six months and to submit a final report to the department upon the
7 end of the term of the grant agreement.

8 “(3) A grant award recipient under this section that operates a local
9 woodstove replacement program serving a geographic area with a
10 population of 10,000 or less may use up to 10 percent of the grant funds
11 to cover the administrative costs of the local woodstove replacement
12 program.

13 “(4)(a) A grant award recipient under this section must provide a
14 matching contribution for purposes of funding the local woodstove
15 replacement program as follows:

16 “(A) For a local woodstove replacement program serving a ge-
17 ographic area with a population of 10,000 or less, a matching contri-
18 bution equal to 10 percent of the grant award.

19 “(B) For a local woodstove replacement program serving a ge-
20 ographic area with a population of more than 10,000 but less than
21 50,000, a matching contribution equal to 15 percent of the grant award.

22 “(C) For a local woodstove replacement program serving a ge-
23 ographic area with a population of 50,000 or more, a matching contri-
24 bution equal to 30 percent of the grant award.

25 “(b)(A) Except as provided in subparagraph (B) of this paragraph,
26 a grant award recipient may meet up to 50 percent of the matching
27 contribution obligation required by this subsection with in-kind con-
28 tributions.

29 “(B) A grant award recipient under this section that operates a lo-
30 cal woodstove replacement program serving a geographic area with a

1 population of 10,000 or less may meet up to 100 percent of the matching
2 contribution obligation required by this subsection with in-kind con-
3 tributions.

4 **“SECTION 5. (1) To receive a grant under section 4 of this 2017 Act,**
5 **a local government, regional authority or nonprofit organization must**
6 **submit an application to the Department of Environmental Quality**
7 **that includes, but is not limited to:**

8 **“(a) A description of the proposed local woodstove replacement**
9 **program to be funded by a grant and a detailed description of how the**
10 **grant funds will be used to:**

11 **“(A) Subsidize or pay the full cost of removing and replacing solid**
12 **fuel burning devices; and**

13 **“(B) Fund other activities in support of the local woodstove re-**
14 **placement program;**

15 **“(b) The geographic area to be served by the proposed local**
16 **woodstove replacement program;**

17 **“(c) A description of how contributions by the proposed local**
18 **woodstove replacement program to reducing the emission of air con-**
19 **taminants from solid fuel burning devices will be measured;**

20 **“(d) Information on any partnerships or expected partnerships be-**
21 **tween the applicant and other organizations or local, state or federal**
22 **agencies that the applicant will engage in to support the proposed local**
23 **woodstove replacement program; and**

24 **“(e) A description of how the applicant will meet the matching**
25 **contribution requirement under section 4 (4) of this 2017 Act.**

26 **“(2)(a) In selecting grant award recipients under section 4 of this**
27 **2017 Act, the department shall give first preference to applicants that**
28 **will utilize the grant funds to operate local woodstove replacement**
29 **programs that serve:**

30 **“(A) Nonattainment areas in this state that do no attain compliance**

1 with the standards for particulate matter established by the Environ-
2 mental Quality Commission pursuant to ORS 468A.025; and

3 “(B) Attainment areas in this state that the department determines
4 are at substantial risk of being designated nonattainment areas due
5 to particulate matter emissions.

6 “(b) The department shall secondarily prioritize the awarding of
7 grants under section 4 of this 2017 Act based on the following factors:

8 “(A) The percentage of low income residents to be served by the
9 proposed local woodstove replacement program;

10 “(B) The amount of other public or private funding available to the
11 applicant to be used to support the proposed local woodstove replace-
12 ment program; and

13 “(C) The geographic diversity of the areas to be served by all grants
14 awarded under section 4 of this 2017 Act.

15 “SECTION 6. ORS 468A.467 is amended to read:

16 “468A.467. A person may not cause or allow any of the following materials
17 to be burned in a solid fuel burning device, a masonry heater, a pellet stove,
18 a trash burner or any device described in ORS 468A.485 [(4)(b)] **(6)(b)**:

19 “(1) Garbage;

20 “(2) Treated wood;

21 “(3) Plastic or plastic products;

22 “(4) Rubber or rubber products;

23 “(5) Animal carcasses;

24 “(6) Products that contain asphalt;

25 “(7) Waste petroleum products;

26 “(8) Paint;

27 “(9) Chemicals;

28 “(10) Paper or paper products, except for paper used to kindle a fire; or

29 “(11) Any other materials described in rules adopted by the commission.

30 “SECTION 7. ORS 468A.505 is amended to read:

1 “468A.505. (1) In connection with the sale of a residential structure, all
2 used solid fuel burning devices, other than cookstoves, in the residential
3 structure or on the real property sold with the residential structure, must
4 be removed and destroyed unless the solid fuel burning devices were certified
5 for sale as new:

6 “(a) By the United States Environmental Protection Agency pursuant to
7 40 C.F.R. part 60, subpart AAA; or

8 “(b) By the Department of Environmental Quality pursuant to ORS
9 468A.465.

10 “(2) Notwithstanding subsection (1) of this section, if pursuant to ORS
11 468A.465 the Environmental Quality Commission adopts more stringent
12 standards than those described in subsection (1) of this section for the cer-
13 tification of new solid fuel burning devices, the commission by rule may re-
14 quire the removal and destruction of some or all used solid fuel burning
15 devices certified for sale as new under less stringent standards if:

16 “(a) The used solid fuel burning devices were manufactured at least 15
17 years prior to the date on which the commission adopts more stringent
18 standards; or

19 “(b) The used solid fuel burning devices are located in a nonattainment
20 area in this state that does not attain compliance with standards for
21 particulate matter established by the commission pursuant to ORS 468A.025.

22 “(3) This section does not apply to:

23 “(a) Masonry heaters;

24 “(b) Masonry fireplaces described in ORS 468A.485 [(4)(b)(A)] **(6)(b)(A)**;
25 and

26 “(c) Central, wood-fired furnaces described in ORS 468A.485 [(4)(b)(E)]
27 **(6)(b)(E)**.

28 “(4) The removal and destruction of a used solid fuel burning device under
29 this section is the responsibility of the seller of the residential structure,
30 unless the seller and buyer agree in writing that it is the buyer’s responsi-

1 bility. If the seller retains responsibility, the seller shall remove and destroy
2 the device prior to the closing date of the sale of the residential structure.
3 If the buyer accepts responsibility, the buyer shall remove and destroy the
4 device within 30 days after the closing date of the sale of the residential
5 structure.

6 “(5) The person responsible for removal and destruction of a used solid
7 fuel burning device under this section shall provide to the department writ-
8 ten confirmation of the removal and destruction, pursuant to rules adopted
9 by the commission.

10 “(6) The failure of a seller or buyer of a residential structure to comply
11 with this section does not invalidate an instrument of conveyance executed
12 in the sale.

13 **“SECTION 8.** ORS 468A.515 is amended to read:

14 “468A.515. (1) If a local government or regional authority has not adopted
15 or is not adequately implementing a curtailment program in any area of the
16 state where such a program is required under the Clean Air Act, the Envi-
17 ronmental Quality Commission may adopt by rule, and the Department of
18 Environmental Quality may operate and enforce, a program to curtail resi-
19 dential solid fuel heating during periods of air stagnation as described in
20 subsection (2) of this section. The department shall suspend operation and
21 enforcement of a program adopted under this subsection upon a determi-
22 nation by the department that the local government or regional authority
23 has adopted and is adequately implementing the required curtailment pro-
24 gram.

25 “(2) Any programs adopted by the commission pursuant to subsection (1)
26 of this section to curtail residential solid fuel heating during periods of air
27 stagnation shall provide for two stages of curtailment based on the severity
28 of projected air quality conditions. Except as provided in subsection (4) of
29 this section, the programs shall apply to all heating by means of solid fuel,
30 including but not limited to solid fuel burning devices, masonry heaters,

1 pellet stoves, trash burners and all devices described in ORS 468A.485
2 [(4)(b)] **(6)(b)**. The programs shall provide that use of a solid fuel burning
3 device, masonry fireplace or other solid fuel burning device identified in
4 rules adopted by the commission be curtailed only at the more severe stage
5 of projected air quality if the solid fuel burning device, masonry fireplace
6 or other solid fuel burning device identified in rules adopted by the com-
7 mission was certified for sale as new:

8 “(a) By the United States Environmental Protection Agency pursuant to
9 40 C.F.R. part 60, subpart AAA; or

10 “(b) By the department pursuant to ORS 468A.465.

11 “(3) Notwithstanding subsection (2) of this section, if pursuant to ORS
12 468A.465 the commission adopts more stringent standards than those de-
13 scribed in subsection (2) of this section for the certification of new solid fuel
14 burning devices, the commission by rule may require curtailment during the
15 less severe stage of projected air quality of some or all solid fuel burning
16 devices certified for sale as new under less stringent standards if:

17 “(a) The solid fuel burning devices were manufactured at least 15 years
18 prior to the date on which the commission adopts more stringent standards;
19 or

20 “(b) The solid fuel burning devices are located in a nonattainment area
21 in this state that does not attain compliance with standards for particulate
22 matter established by the commission pursuant to ORS 468A.025.

23 “(4) Programs adopted by the commission to curtail residential solid fuel
24 heating during periods of air stagnation do not apply to:

25 “(a) A person who is classified at less than or equal to 125 percent of
26 poverty level pursuant to guidelines established by the commission taking
27 into account federal poverty guidelines;

28 “(b) A person whose residence is equipped solely with a solid fuel burning
29 device that meets any additional requirements as described in rules adopted
30 by the commission; and

1 “(c) Pellet stoves, unless the pellet stove is located in a nonattainment
2 area in this state that does not attain compliance with standards for
3 particulate matter established by the commission pursuant to ORS 468A.025.

4 **“SECTION 9. In addition to and not in lieu of any other appropri-
5 ation, there is appropriated to the Department of Environmental
6 Quality, for the biennium beginning July 1, 2017, out of the General
7 Fund, the amount of \$_____, to be deposited in the Residential Solid
8 Fuel Heating Air Quality Improvement Fund to be used for the pur-
9 pose of funding the award of grants by the department under section
10 4 of this 2017 Act.**

11 **“SECTION 10. Not later than September 15, 2018, the Department
12 of Environmental Quality shall submit a report, in the manner pro-
13 vided by ORS 192.245, on the implementation of sections 4 and 5 of this
14 2017 Act to the interim committees of the Legislative Assembly related
15 to environment and natural resources.**

16 **“SECTION 11. Section 10 of this 2017 Act is repealed December 31,
17 2018.**

18 **“SECTION 12. This 2017 Act being necessary for the immediate
19 preservation of the public peace, health and safety, an emergency is
20 declared to exist, and this 2017 Act takes effect July 1, 2017.”.**

21
