A-Engrossed
House Bill 4003
Ordered by the House February 19
Including House Amendments dated February 19

Sponsored by Representatives NOSSE, GREENLICK, SALINAS; Representatives BARNHART, GORSEK, HELM, HERNANDEZ, HOLVEY, KENY-GUYER, KOTEK, MALSTROM, MARSH, PILUSO, POWER, REARDON, SANCHEZ, SOLLMAN, Senators DEMBROW, FREDERICK, MONROE, TAYLOR (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Requires certain public improvement contracts to meet certain requirements related to use of diesel engines in course of performing public improvement contract.
Requires Environmental Quality Commission to adopt indirect source review program by rule.
Requires certain nonroad diesel engines to be registered with Department of Environmental Quality. Authorizes commission to adopt rules and registration fees.
Directs commission to adopt by rule diesel engine emission standards for medium-duty trucks, heavy-duty trucks and nonroad diesel engines. Requires commission to phase in implementation of certain standards.
Makes certain provisions operative January 1, 2019.
Authorizes commission to adopt rules and registration fees.

A BILL FOR AN ACT
Relating to engine emissions; creating new provisions; amending ORS 468A.805 and 468A.807; repealing ORS 825.615; and prescribing an effective date.

Whereas exposure to diesel particulate pollution causes myriad health effects, including the exacerbation of asthma symptoms and early death from heart disease and various cancers; and
Whereas children are especially vulnerable to the negative health effects of diesel particulate pollution because their lungs are still in the developmental phase and they breathe, on average, 50 percent more air per pound of body weight than adults; and
Whereas environmental justice communities, meaning communities of color and environmentally overburdened, underserved and low-income communities, bear a disproportionate burden of exposure to diesel pollution; and
Whereas the health impacts and premature deaths caused by diesel particulate pollution have an annual economic impact of more than $3 billion in this state; and
Whereas 23 Oregon counties have total concentrations of ambient levels of diesel particulate matter that are considered harmful to health; and
Whereas the problem of diesel particulate pollution in this state is exacerbated when engines are allowed to idle unnecessarily; and
Whereas new diesel engines and older diesel engines retrofitted with particulate filters can reduce diesel particulates by up to 95 percent as compared to diesel particulate matter emissions from older, dirty diesel engines that are not retrofitted; and

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted.
New sections are in boldfaced type.

LC 19
Whereas the attrition rate of older, dirty diesel engines that are not retrofitted is too slow to adequately curb emissions in a timely manner and protect public health; and

Whereas a strategy to shorten the timeline for conversion to the use of new diesel engines and older diesel engines retrofitted with particulate filters requires a combination of regulations and incentives; and

Whereas the incorporation of California’s emission standards for nonroad diesel engines into the Department of Environmental Quality’s existing air quality regulations will benefit public health; now, therefore,

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

CLEAN DIESEL IN PUBLIC CONTRACTS

SECTION 1. Section 2 of this 2018 Act is added to and made a part of the Public Contracting Code.

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

(2) This section applies only:

(a) To a public improvement contract for a public improvement with a value of $2 million or more and for which state funds constitute 30 percent of more of the value of the contract; and

(b) If the contracting agency for the public improvement contract is:

(A) A state contracting agency; or

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

(3) Except as provided in subsection (5) of this section, a public improvement contract must reserve an amount equal to at least one percent of the total contract price for the purpose of performing qualifying replacements, repowers or retrofits, as described in ORS 468A.797, 468A.799 and 468A.803, of diesel engines that:

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

(b) For the three years following a repower or retrofit, will undergo at least 50 percent of the diesel engine’s use in Oregon, as measured by miles driven or hours operated.

(4) Any amount reserved in a public improvement contract under subsection (3) of this section that remains unexpended after completion of and final payment for the public improvement contract shall be deposited in the Clean Diesel Engine Fund.

(5)(a) The Environmental Quality Commission may adopt by rule minimum standards for contract specifications relating to the use of diesel engines in the course of performing a public improvement contract.

(b) As an alternative to meeting the requirements of subsection (3) of this section, a public improvement contract subject to this section may include contract specifications that meet the minimum standards adopted by the commission by rule under this subsection.

SECTION 3. Section 2 of this 2018 Act applies to public improvement contracts advertised or solicited on or after January 1, 2019, or, for public improvement contracts that are not advertised or solicited, public improvement contracts that a contracting agency enters into on or after January 1, 2019.
INDIRECT SOURCE RULES

SECTION 4. Section 5 of this 2018 Act is added to and made a part of ORS chapter 468A.

SECTION 5. (1) For purposes of this section, “indirect source” means a facility, building, structure, installation, real property, road or highway that attracts, or may attract, mobile sources of air contaminants.

(2) The Environmental Quality Commission shall adopt by rule an indirect source review program. The program adopted under this section must identify indirect sources subject to the program and must include, but need not be limited to:

(a) Provisions for the facility-by-facility review of new, modified and existing indirect sources of air contaminants; and

(b) Provisions for requiring measures necessary to ensure, or assist in ensuring, that a new, modified or existing indirect source subject to the indirect source review program will not attract mobile sources of air contaminants, the emissions from which would cause or contribute to concentrations of air contaminants commonly associated with diesel engine emissions that:

(A) Exceed any national ambient air quality standard; or

(B) Prevent maintenance of any national ambient air quality standard.

(3) Provisions adopted under subsection (2)(b) of this section must include, but need not be limited to, requirements for an indirect source subject to the indirect source review program to develop and administer a pollution reduction plan for reducing mobile source emissions resulting from the use of the indirect source.

SECTION 6. Section 5 of this 2018 Act applies to:

(1) Indirect sources in existence before, on and after January 1, 2019;

(2) A new indirect source for which construction will commence on or after January 1, 2019; and

(3) An existing indirect source for which commencement of a modification will occur on or after January 1, 2019.

NONROAD DIESEL ENGINE REGISTRATION

SECTION 7. Sections 8 and 9 of this 2018 Act are added to and made a part of ORS 468A.795 to 468A.807.

SECTION 8. (1) A person may not operate a nonroad diesel engine in this state without first registering the engine with the Department of Environmental Quality under section 9 of this 2018 Act.

(2) This section does not apply to:

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

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

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

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

SECTION 9. (1) The Department of Environmental Quality shall register and provide a registration renewal for an increment of one year or less for a nonroad diesel engine owned or operated by a person who pays the appropriate registration or renewal fee.

(2)(a) The department may appoint agents to register nonroad diesel engines. Agents
shall register nonroad diesel engines in accordance with procedures prescribed by the Environ-
mental Quality Commission by rule and shall charge and collect the fees prescribed by
law.

(b) The department may authorize an agent who is not a department employee to charge
a service fee of $2, in addition to the registration fee, for the registration service performed
by the agent.

c) The department shall supply agents with registration forms for nonroad diesel en-
gines.

(3) The commission shall establish by rule a schedule of fees for the issuance and renewal
of nonroad diesel engine registrations. The fees established under the schedule shall be based
on the costs of the department in carrying out the provisions of this section and section 8
of this 2018 Act.

(4) The fees collected under this section shall be paid into the State Treasury for deposit
in the Clean Diesel Engine Fund, to be used only for paying the department’s expenses in
administering and enforcing this section and section 8 of this 2018 Act.

DIESEL ENGINE EMISSION STANDARDS

SECTION 10. Sections 11 and 12 of this 2018 Act are added to and made a part of ORS
468A.795 to 468A.807.

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

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

(a) On and after January 1, 2019, a medium-duty truck or heavy-duty truck operating in
Oregon may not be replaced with a truck with a 2006 model year or older engine; and

(b) By January 1, 2029, all medium-duty trucks and heavy-duty trucks operating in
Oregon must have a 2007 model year or newer engine.

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

(a) A fleet averaging option.

(b) Options that provide flexibility for small fleets.

(c) Provisions that allow owners and operators to obtain compliance credits.

(d) Compliance extensions for individual trucks that meet eligibility requirements adopted
by the commission by rule.

(e) Compliance through retrofitting with exhaust controls that reduce diesel particulate
emissions by at least 85 percent when compared with the baseline emissions for the relevant
engine year and application.

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

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

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

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

(c) Implements of husbandry, as defined in ORS 801.310.
(d) Motor vehicles used exclusively as training vehicles, as determined by the commission by rule.

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

SECTION 12. (1) The Environmental Quality Commission shall adopt by rule nonroad diesel engine emission standards.

(2) Except as may be required by subsection (3) of this section, the standards must include, but need not be limited to, standards that prohibit, beginning on January 1, 2019, the addition to a fleet of a nonroad piece of equipment that is powered by a nonroad diesel engine that does not meet or exceed certain tier standards for nonroad diesel exhaust emissions as adopted by the United States Environmental Protection Agency.

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

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

ENVIRONMENTAL MITIGATION TRUST AGREEMENT FUNDS, USES

SECTION 13. ORS 468A.805 is amended to read:

468A.805. (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)(a) After awarding grants as required by subsection (2) of this section and to the extent authorized by the agreement, the department shall allocate moneys awarded pursuant to subsection (1) of this section among owners and operators of the following categories of motor vehicles powered by diesel engines, subject to the preferences for grant awards established under ORS 468A.807 and paragraph (b) of this subsection:

(A) Drayage trucks.

(B) Delivery trucks.

(C) Waste hauling trucks.

(D) Transit buses.

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

(F) Airport ground support equipment.

(b) Notwithstanding any contrary rule adopted by the Environmental Quality Commission under ORS 468A.807 (2), the department shall give first preference for awarding grants under this subsection to owners and operators that will use the grants to reduce nitrogen oxides emissions from diesel engines operated in environmental justice communities or communities of color.

(c) The department may not award a grant under this subsection to the owner or operator of a motor vehicle powered by a diesel engine unless the following criteria are met:

(A) Use of the motor vehicle has occurred in Oregon during the year preceding the date of the grant.

(B) The motor vehicle is authorized for use in this state.

(C) For the three years following the receipt of a grant award, at least 50 percent of the motor vehicle use for which the owner or operator received the grant will occur in Oregon, as measured by miles driven or hours operated.

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

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

(4) 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.

SECTION 14. ORS 468A.807 is amended to read:

ORS 468A.807. (1) The Environmental Quality Commission shall adopt rules necessary to implement ORS 468A.795 to 468A.807.

(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)(a) Rules adopted by the commission under this section must reserve a portion of the financial assistance available each year:

(A) For applicants that own or operate a small number of diesel engines or Oregon diesel truck engines; and

(B) For applicants that are businesses owned by women and by members of minority groups.

(b) The rules must provide for simplified access to financial assistance for [those applicants] the applicants described in this subsection.

(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.

REPEAL OF STATE PREEMPTION OF LOCAL REGULATION OF IDLING BY PRIMARY ENGINES IN COMMERCIAL VEHICLES

SECTION 15. ORS 825.615 is repealed.

OPERATIVE DATE

SECTION 16. (1) Sections 1 to 12 of this 2018 Act become operative January 1, 2019.

(2) The Environmental Quality Commission and the Department of Environmental Quality may adopt rules or take any actions before the operative date specified in subsection (1) of this section that are necessary to enable the commission and the department, on and after the operative date specified in subsection (1) of this section, to carry out the provisions of section 1 to 12 of this 2018 Act.

CAPTIONS

SECTION 17. The unit captions used in this 2018 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 2018 Act.

EFFECTIVE DATE

SECTION 18. This 2018 Act takes effect on July 1, 2018.