

# House Bill 4003

Sponsored by Representatives NOSSE, GREENLICK, SALINAS; Representatives 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 **as introduced**.

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 additional uses of moneys received by state pursuant to Volkswagen Environmental Mitigation Trust Agreement.

Repeals state preemption of local regulation of idling by primary engines in commercial vehicles.

Takes effect July 1, 2018.

## A BILL FOR AN ACT

1  
2 Relating to engine emissions; creating new provisions; amending ORS 468A.805; repealing ORS  
3 825.615; and prescribing an effective date.

4 Whereas exposure to diesel particulate pollution causes myriad health effects, including the  
5 exacerbation of asthma symptoms and early death from heart disease and various cancers; and

6 Whereas children are especially vulnerable to the negative health effects of diesel particulate  
7 pollution because their lungs are still in the developmental phase and they breathe, on average, 50  
8 percent more air per pound of body weight than adults; and

9 Whereas environmental justice communities, including communities of color, bear a disproportio-  
10 nate burden of exposure to diesel pollution; and

11 Whereas the health impacts and premature deaths caused by diesel particulate pollution have  
12 an annual economic impact of more than \$3 billion in this state; and

13 Whereas 23 Oregon counties have total concentrations of ambient levels of diesel particulate  
14 matter that are considered harmful to health; and

15 Whereas the problem of diesel particulate pollution in this state is exacerbated when engines  
16 are allowed to idle unnecessarily; and

17 Whereas new diesel engines and older diesel engines retrofitted with particulate filters can re-  
18 duce diesel particulates by up to 95 percent as compared to diesel particulate matter emissions from  
19 older, dirty diesel engines that are not retrofitted; and

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

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

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 or 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,

1 structure, installation, real property, road or highway that attracts, or may attract, mobile  
2 sources of air contaminants.

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

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

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

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

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

15 (3) Provisions adopted under subsection (2)(b) of this section must include, but need not  
16 be limited to, requirements for an indirect source subject to the indirect source review pro-  
17 gram to develop and administer a pollution reduction plan for reducing mobile source emis-  
18 sions resulting from the use of the indirect source.

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

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

21 (2) A new indirect source for which construction will commence on or after January 1,  
22 2019; and

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

25  
26 **NONROAD DIESEL ENGINE REGISTRATION**  
27

28 **SECTION 7.** Sections 8 and 9 of this 2018 Act are added to and made a part of ORS  
29 468A.795 to 468A.807.

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

33 (2) This section does not apply to:

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

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

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

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

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

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

45 (b) The department may authorize an agent who is not a department employee to charge

1 a service fee of \$2, in addition to the registration fee, for the registration service performed  
 2 by the agent.

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

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

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

12  
 13 **DIESEL ENGINE EMISSION STANDARDS**

14  
 15 **SECTION 10.** Sections 11 and 12 of this 2018 Act are added to and made a part of ORS  
 16 468A.795 to 468A.807.

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

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

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

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

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

27 (a) A fleet averaging option.

28 (b) Options that provide flexibility for small fleets.

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

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

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

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

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

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

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

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

42 (d) Motor vehicles used exclusively as training vehicles, as determined by the commission  
 43 by rule.

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

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

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

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

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

13  
14                                   **ENVIRONMENTAL MITIGATION TRUST**  
15                                   **AGREEMENT FUNDS, USES**  
16

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

18       468A.805. (1) Subject to and consistent with ORS 468A.803 (8) and with the terms of the Envi-  
19 ronmental Mitigation Trust Agreement, any moneys received by the State of Oregon pursuant to the  
20 agreement that are deposited in the Clean Diesel Engine Fund under ORS 468A.801 must be used  
21 by the Department of Environmental Quality to award grants for the purpose of reducing nitrogen  
22 oxides emissions from diesel engines.

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

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

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

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

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

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

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

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

1 (3)(a) After awarding grants as required by subsection (2) of this section and to the ex-  
2 tent authorized by the agreement, the department shall allocate moneys awarded pursuant  
3 to subsection (1) of this section among owners and operators of the following categories of  
4 motor vehicles powered by diesel engines, subject to the preferences for grant awards es-  
5 tablished under 468A.807:

- 6 (A) Drayage trucks.
- 7 (B) Delivery trucks.
- 8 (C) Waste hauling trucks.
- 9 (D) Transit buses.
- 10 (E) Vehicles owned and operated by a local government.
- 11 (F) Airport ground support equipment.

12 (b) The department may not award a grant under this subsection to the owner or oper-  
13 ator of a motor vehicle powered by a diesel engine unless the following criteria are met:

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

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

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

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

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

26 [(3)] (4) Except for awarding grants pursuant to [subsection (2)] subsections (2) and (3) of this  
27 section, the department may not award grants from the moneys described under subsection (1) of  
28 this section without prior approval by the Legislative Assembly by law.

29  
30 **REPEAL OF STATE PREEMPTION OF LOCAL REGULATION OF**  
31 **IDLING BY PRIMARY ENGINES IN COMMERCIAL VEHICLES**

32  
33 **SECTION 14. ORS 825.615 is repealed.**

34  
35 **OPERATIVE DATE**

36  
37 **SECTION 15. (1) Sections 1 to 12 of this 2018 Act become operative January 1, 2019.**

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

43  
44 **CAPTIONS**

1        **SECTION 16.** The unit captions used in this 2018 Act are provided only for the conven-  
2        ience of the reader and do not become part of the statutory law of this state or express any  
3        legislative intent in the enactment of this 2018 Act.

4

5

**EFFECTIVE DATE**

6

7

**SECTION 17.** This 2018 Act takes effect on July 1, 2018.

8

\_\_\_\_\_