

Enrolled
House Bill 2007

Sponsored by Representatives KOTEK, POWER, NOSSE, Senators DEMBROW, FREDERICK, TAYLOR; Representatives HERNANDEZ, HOLVEY, KENY-GUYER, NERON, PRUSAK, SALINAS, SANCHEZ, SCHOUTEN, SMITH WARNER, WILDE, WILLIAMSON, Senator MONNES ANDERSON

CHAPTER

AN ACT

Relating to engine emissions; creating new provisions; amending ORS 468.140, 468A.795, 468A.803, 468A.805, 803.045, 815.095, 815.305, 815.315, 815.320 and 815.325; and declaring an emergency.

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

USES OF ENVIRONMENTAL MITIGATION TRUST AGREEMENT MONEYS

SECTION 1. ORS 468A.795 is amended to read:
468A.795. As used in ORS 468A.795 to 468A.807:

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

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

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

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

[(5)] (4) "Diesel engine" means a compression ignition engine.

[(6)] (5) "Environmental Mitigation Trust Agreement" means the **fully executed** Environmental Mitigation Trust Agreement **for State Beneficiaries effective October 2, 2017, and issued pursuant to Paragraph 17 of** [required by] the Volkswagen "Clean Diesel" Marketing, Sales Practices and Products Liability Litigation partial consent decree dated October 25, 2016.

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

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

(8) "**Gross vehicle weight rating**" means the value specified by the manufacturer as the **maximum loaded weight of a single or a combination vehicle.**

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

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

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

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

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

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

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

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

[(17)(a)] (16)(a) "Replacement" means:

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

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

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

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

[(19)] (18) "Retrofit" means to equip a diesel engine with new emissions-reducing parts or technology after the manufacture of the original engine **or to convert the diesel engine into an engine capable of being powered by alternative fuel**. A retrofit must use the greatest degree of emissions reduction available for the particular application of the equipment retrofitted that meets the cost-effectiveness threshold.

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

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

SECTION 2. 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*] **be expended by the Department of Environmental Quality as follows:**

(a) **The department shall** 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) **Moneys not expended under paragraph (a) of this subsection must be:**

(A) **Awarded as grants for the purpose of reducing emissions from diesel engines; or**

(B) **Utilized by the department as the State of Oregon's voluntary matching funds under the Diesel Emissions Reduction Act Program in the Energy Policy Act of 2005, 42 U.S.C. 16133, and for the purpose of awarding grants for reducing diesel particulate matter emissions from diesel engines.**

[(b)] (2)(a) In awarding grants under [*this subsection*] **subsection (1)(a) of this section**, 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]* **subsection (1)(a) of this section** are met. A grant may be awarded under *[this subsection]* **subsection (1)(a) of this section** 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)] **(b)** The grant amount per school bus awarded under *[this paragraph]* **subsection (1)(a) of this section** shall be for:

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

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

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

(3) In awarding grants pursuant to subsection (1)(b) of this section, the department shall give preference to projects that will:

(a) Support compliance with section 4 of this 2019 Act or with contract specifications or preferences related to emissions standards for diesel engines established by a public body, as defined in ORS 174.109;

(b) Be carried out by a grant applicant that is a disadvantaged business enterprise, a minority-owned business, a woman-owned business, a business that a service-disabled veteran owns or an emerging small business, as those terms are defined in ORS 200.005;

(c) Involve the replacement, repower or retrofit of one or more motor vehicles or pieces of equipment that have at least three years of remaining useful life at the time that the grant agreement is executed;

(d) Support the utilization of fuels for which regulated parties may generate credits under the clean fuels program adopted by rule by the Environmental Quality Commission under ORS 468A.266 (1)(b);

(e) Benefit owners and operators of heavy-duty trucks, if the fleet of the owner or operator includes only one heavy-duty truck and the heavy-duty truck is registered in Multnomah, Clackamas or Washington County;

(f) Benefit small fleets other than as described in paragraph (e) of this subsection;

(g) Involve the retrofit of concrete mixer trucks or trucks that are used for the transportation of aggregate; or

(h) Meet the criteria of any other preferences that the commission may establish by rule, if the department determines that the additional preferences are necessary to ensure that grant awards result in the reduction of emissions from diesel engines.

(4) The commission may adopt rules as necessary to implement the provisions of this section.

TITLING AND REGISTRATION OF CERTAIN VEHICLES; DIESEL ENGINE REQUIREMENTS

SECTION 3. Sections 4 and 5 of this 2019 Act are added to and made a part of the Oregon Vehicle Code.

SECTION 4. (1) As used in this section and section 5 of this 2019 Act:

- (a) "Diesel engine" has the meaning given that term in ORS 468A.795.
 - (b) "Heavy-duty truck" has the meaning given that term in ORS 468A.795.
 - (c) "Medium-duty truck" has the meaning given that term in ORS 468A.795.
 - (d) "Public body" has the meaning given that term in ORS 174.109.
- (2) On and after January 1, 2025, the Department of Transportation may not issue a certificate of title for the following motor vehicles if the address of the owner of the motor vehicle is located within Multnomah, Clackamas or Washington County:
- (a) A medium-duty truck powered by a model year 2009 or older diesel engine.
 - (b) A heavy-duty truck powered by a model year 2006 or older diesel engine.
- (3) The department may not issue registration or renewal of registration on and after the following dates for the following motor vehicles if the address of the owner of the motor vehicle is located within Multnomah, Clackamas or Washington County:
- (a) January 1, 2023, for a medium-duty truck or a heavy-duty truck if the motor vehicle is powered by a model year 1996 or older diesel engine.
 - (b) January 1, 2029, for:
 - (A) A medium-duty truck powered by a model year 2009 or older diesel engine.
 - (B) A heavy-duty truck powered by a model year 2009 or older diesel engine owned by a public body.
 - (C) A heavy-duty truck powered by a model year 2006 or older diesel engine owned by a person other than a public body.
- (4) Notwithstanding subsections (2) and (3) of this section, the department may issue a certificate of title, issue registration or issue renewal of registration for a motor vehicle described in subsection (2) or (3) of this section after a date described in subsection (2) or (3) of this section if:
- (a) The diesel engine that powers the motor vehicle has been retrofitted with approved retrofit technology pursuant to rules adopted by the Environmental Quality Commission under section 7 of this 2019 Act; and
 - (b) Proof of certification of the retrofit has been issued under section 7 of this 2019 Act.
- (5) The following motor vehicles are exempt from the requirements of this section:
- (a) Motor vehicles registered as farm vehicles under the provisions of ORS 805.300.
 - (b) Farm tractors.
 - (c) Implements of husbandry.
 - (d) Motor vehicles used exclusively as training vehicles.
 - (e) Publicly and privately owned emergency vehicles.
 - (f) Ambulances.
 - (g) Campers.
 - (h) Motor homes.
 - (i) Recreational vehicles.
 - (j) Heavy-duty trucks operated for 5,000 miles or fewer on highways of this state during one calendar year.
 - (k) Carriers with a fleet size of five or fewer heavy-duty trucks.
 - (L) Antique vehicles.
 - (m) Motor trucks, as defined in ORS 801.355, used primarily to transport logs.
- (6)(a) In order for registration to continue to be valid for a motor vehicle that is owned by a public body and subject to subsection (3) of this section, the public body shall, in a manner determined by the department by rule, submit proof to the department that the motor vehicle complies with subsection (3) of this section. Proof of compliance must be on a form supplied by the department and must include such information as the department may require. Proof of compliance for a motor vehicle owned by a public body is valid until the ownership of the vehicle changes.
- (b) The department shall provide notice to a public body of the requirement under this subsection to submit proof of compliance with subsection (3) of this section. The notice shall

be issued to the public body no later than one year prior to the date that the proof of compliance must be submitted to the department.

(7) The department may adopt rules as necessary to administer this section.

SECTION 5. (1) No later than September 15 of each year, the Department of Transportation shall submit a report in the manner provided by ORS 192.245 to the interim committees of the Legislative Assembly related to transportation and the environment on the registration of medium-duty trucks and heavy-duty trucks in this state. The purposes of the report shall be to identify and address trends in the registration of medium-duty trucks and heavy-duty trucks in this state over time and to identify any effects that the requirements of section 4 of this 2019 Act may have on the trends in registration.

(2) The report shall include information on:

(a) The number of medium-duty trucks and heavy-duty trucks registered in each county in this state; and

(b) The number of medium-duty trucks and heavy-duty trucks registered in this state that are motor vehicles described in section 4 (5) of this 2019 Act.

SECTION 6. Section 7 of this 2019 Act is added to and made a part of ORS chapter 468A.

SECTION 7. (1) The Environmental Quality Commission shall adopt by rule criteria for certification of approved retrofit technologies for the retrofit of a diesel engine that powers a medium-duty truck or a heavy-duty truck. In determining the criteria and approved retrofit technologies, the commission shall consider:

(a) Regulations adopted by the State of California for reducing diesel engine emissions from in-use medium-duty trucks and heavy-duty trucks; and

(b) The list of technologies approved as qualifying retrofits included in the standards established by the commission under ORS 468A.799.

(2) The commission shall prescribe by rule the manner for issuing certification that a diesel engine has been retrofitted with approved retrofit technology in compliance with the criteria adopted by rule under subsection (1) of this section.

(3) When proof of certification that a diesel engine has been retrofitted with approved retrofit technology is required under section 4 of this 2019 Act, the proof may be provided by any means that the Department of Transportation and the commission determine by joint rulemaking or by interagency agreement to be satisfactory. Proof of certification may include, but need not be limited to, a certificate of compliance.

SECTION 8. ORS 803.045 is amended to read:

803.045. (1) The Department of Transportation shall issue title for a vehicle if the applicant and the vehicle meet the following qualifications:

(a) The applicant must satisfy the department that the applicant is the owner of the vehicle and is otherwise entitled to have title issued in the applicant's name.

(b) Except as otherwise provided in ORS 803.050 (2), the applicant must submit a completed and signed application for title described in ORS 803.050.

(c) The applicant must pay the fee for issuance of a certificate of title under ORS 803.090 or the fee for issuance of title in another form, as established by the department by rule in accordance with ORS 803.012.

(d) If the vehicle is a reconstructed vehicle or an assembled vehicle, the applicant must provide the following information in addition to any other information required under this section:

(A) The certificate of title last issued for the frame of the vehicle, a salvage title certificate issued for the vehicle or other evidence of ownership satisfactory to the department.

(B) Bills of sale for major components used to build the vehicle.

(e) If the vehicle is covered by an Oregon title or salvage title certificate, the applicant shall surrender the Oregon title or salvage title certificate, submit an application as provided under ORS 803.065 or submit other evidence of ownership satisfactory to the department.

(f) Unless the department adopts rules to the contrary, if the vehicle is from another jurisdiction, the applicant shall surrender to the department with the application the certificate of title is-

sued by the other jurisdiction, if such jurisdiction requires certificates of title. If such jurisdiction does not require certificates of title, then the applicant shall surrender the registration cards.

(g) If required by the department, the applicant must submit proof of ownership as described under ORS 803.205.

(h) Other than a racing activity vehicle as defined in ORS 801.404, if the department has reason to believe a vehicle was not certified by the original manufacturer as conforming to federal vehicle standards, the department may require the applicant to provide proof satisfactory to the department that the vehicle conforms to federal vehicle standards.

(i) Unless the vehicle is exempted from odometer disclosure requirements, the applicant shall submit an appropriate odometer disclosure form. The department shall determine what constitutes an appropriate form in any particular situation. The department may make exceptions by rule to the requirement for submission of an odometer disclosure form.

(2)(a) The department may not issue title for a vehicle:

(A) (a) Required by ORS 803.210 to be inspected unless the vehicle has been inspected as described in ORS 803.212 and the inspection fee paid under ORS 803.215.

(B) (b) If the current vehicle title, certificate or ownership document is a junk title, junk certificate or similar ownership document issued by another jurisdiction, or has a junk or similar brand or notation.

(c) **As prescribed in section 4 of this 2019 Act.**

(b) (3) The department may adopt any rules it considers necessary for the administration of *this* subsection (2)(a) and (b) of this section.

SECTION 9. ORS 815.095 is amended to read:

815.095. (1) A person commits the offense of making unlawful sales of, installations of or representations concerning vehicle pollution control systems if the person does any of the following:

(a) Sells, displays, advertises or represents as a certified system any motor vehicle pollution control system that is not certified under ORS 468A.365.

(b) **Sells, displays, advertises or represents as an approved retrofit technology any retrofit technology that is not approved under section 7 of this 2019 Act.**

(b) (c) Installs or sells for installation upon a motor vehicle any motor vehicle pollution control system for which a certificate of approval has not been issued under ORS 468A.365.

(2) The offense described in this section, making unlawful sales, installations or representations concerning vehicle pollution control systems, is a Class A misdemeanor but each day of violation does not constitute a separate offense.

SECTION 10. ORS 815.305 is amended to read:

815.305. (1) A person commits the offense of unlawful disconnection or alteration of pollution control equipment if the person does any of the following:

(a) Disconnects or permits to be disconnected a factory installed motor vehicle air pollution control device or a factory-installed system, as defined in ORS 468A.350, or knowingly and willfully permits such device or factory-installed system to become or remain inoperative.

(b) Modifies or alters a certified system or factory-installed system, as defined in ORS 468A.350, in a manner that decreases its efficiency or effectiveness in the control of air pollution.

(c) **Modifies or alters an installed, approved retrofit technology for which proof of certification has been issued under section 7 of this 2019 Act in a manner that decreases its efficiency or effectiveness in the control of air pollution.**

(2) The following exemptions to this section are established:

(a) This section does not apply when factory-installed motor vehicle air pollution control equipment, systems or devices are disconnected for the purpose of conversion to gaseous fuels including, but not limited to, liquefied petroleum gases and natural gases in liquefied or gaseous form.

(b) This section is not intended to prohibit the use of replacement, conversion, turbocharger or other alternative components in a certified or factory-installed system if the components do not significantly affect the efficiency or effectiveness of the system in controlling air pollution.

(3) The offense described in this section, unlawful disconnection or alteration of pollution control equipment, is a Class A misdemeanor, but each day of violation does not constitute a separate offense.

SECTION 11. ORS 815.315 is amended to read:

815.315. (1) A person commits the offense of use of improper certificate for pollution control system if the person makes, issues or knowingly uses any imitation or counterfeit of a certificate of compliance described under ORS 815.310 **or section 7 of this 2019 Act.**

(2) The offense described in this section, use of improper certificate for pollution control system, is a Class B traffic violation, but each day of violation does not constitute a separate offense.

SECTION 12. ORS 815.320 is amended to read:

815.320. (1) A person commits the offense of unlawful certification of compliance with pollution control requirements if the person does any of the following:

(a) Falsely certifies that a motor vehicle is equipped with a functioning certified system, as defined in ORS 468A.350, or that the motor vehicle complies with the rules and standards adopted by the Environmental Quality Commission under ORS 468A.360.

(b) Falsifies any information on the certificate of compliance described under ORS 815.310.

(c) Falsely certifies that a diesel engine has been retrofitted with approved retrofit technology under section 7 of this 2019 Act.

(d) Falsifies any information on the certificate of compliance described under section 7 of this 2019 Act.

[(c)] **(e) With a purpose to defraud or with intent, causes registration of a motor vehicle that would not otherwise be eligible for registration because of its failure to comply with:**

(A) Rules and standards adopted by the Environmental Quality Commission under ORS 468A.360; or

(B) Section 4 of this 2019 Act.

(2) The offense described in this section, unlawful certification of compliance with pollution control requirements, is a Class A misdemeanor, but each day of violation does not constitute a separate offense.

SECTION 13. ORS 815.325 is amended to read:

815.325. (1) A person commits the offense of unlawfully requiring repair for certification with pollution control requirements if the person requires as a condition of the issuance of a certification of compliance described under ORS 815.310 **or proof of certification described under section 7 of this 2019 Act** any repairs or services unnecessary for compliance with **section 4 of this 2019 Act or with** rules or standards adopted under ORS 468A.350, 468A.355, 468A.365 and 468A.385.

(2) The offense described in this section, unlawfully requiring repair for certification of compliance with pollution control requirements, is a Class A misdemeanor, but each day of violation does not constitute a separate offense.

VOLUNTARY EMISSIONS CONTROL LABEL PROGRAM

SECTION 14. Section 15 of this 2019 Act is added to and made a part of ORS chapter 468A.

SECTION 15. (1) The Environmental Quality Commission shall adopt by rule a program allowing for an owner or operator of a piece of construction equipment powered by a nonroad diesel engine and operated in Oregon to voluntarily demonstrate to the Department of Environmental Quality the emissions profile of the nonroad diesel engine powering the equipment, and to receive and display an emission control label on the piece of construction equipment.

(2) The department may contract with an independent third-party to implement the program described in subsection (1) of this section.

(3) The commission may establish by rule a schedule of fees for participation in the program developed under this section. The fees established under this section shall be based upon the costs of the department in carrying out the program.

(4) The fees collected under subsection (3) of this section shall be deposited into the State Treasury to the credit of an account of the department and are continuously appropriated to the department for payment of the costs of the department in carrying out the provisions of this section.

MOTOR VEHICLE EMISSIONS STANDARDS; CIVIL PENALTIES

SECTION 16. ORS 468.140 is amended to read:

468.140. (1) In addition to any other penalty provided by law, any person who violates any of the following shall incur a civil penalty for each day of violation in the amount prescribed by the schedule adopted under ORS 468.130:

(a) The terms or conditions of any permit required or authorized by law and issued by the Department of Environmental Quality or a regional air quality control authority.

(b) Any provision of ORS 164.785, 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755 and 783.625 to 783.640 and ORS chapter 467 and ORS chapters 468, 468A and 468B.

(c) Any rule or standard or order of the Environmental Quality Commission adopted or issued pursuant to ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755 and 783.625 to 783.640 and ORS chapter 467 and ORS chapters 468, 468A and 468B.

(d) Any term or condition of a variance granted by the commission or department pursuant to ORS 467.060.

(e) Any rule or standard or order of a regional authority adopted or issued under authority of ORS 468A.135.

(f) The financial assurance requirement under ORS 468B.390 and 468B.485 or any rule related to the financial assurance requirement under ORS 468B.390.

(2) Each day of violation under subsection (1) of this section constitutes a separate offense.

(3)(a) In addition to any other penalty provided by law, any person who intentionally or negligently causes or permits the discharge of oil or hazardous material into the waters of the state or intentionally or negligently fails to clean up a spill or release of oil or hazardous material into the waters of the state as required by ORS 466.645 shall incur a civil penalty not to exceed the amount of \$100,000 for each violation.

(b) In addition to any other penalty provided by law, the following persons shall incur a civil penalty not to exceed the amount of \$25,000 for each day of violation:

(A) Any person who violates the terms or conditions of a permit authorizing waste discharge into the air or waters of the state.

(B) Any person who violates any law, rule, order or standard in ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755 and 783.625 to 783.640 and ORS chapters 468, 468A and 468B relating to air or water pollution.

(C) Any person who violates the provisions of a rule adopted or an order issued under ORS 459A.590.

(4) In addition to any other penalty provided by law, any person who violates the provisions of ORS 468B.130 shall incur a civil penalty not to exceed the amount of \$1,000 for each day of violation.

[(5) Subsection (1)(c) and (e) of this section does not apply to violations of motor vehicle emission standards which are not violations of standards for control of noise emissions.]

(5) Notwithstanding subsection (1)(c) and (e) of this section, the owner or lessee of a motor vehicle may not incur a civil penalty for a violation of the requirement that the owner or lessee obtain a motor vehicle pollution control system certificate of compliance issued under ORS 468A.380.

(6) Notwithstanding the limits of ORS 468.130 (1) and in addition to any other penalty provided by law, any person who intentionally or negligently causes or permits open field burning contrary to the provisions of ORS 468A.555 to 468A.620 and 468A.992, 476.380 and 478.960 shall be assessed by the department a civil penalty of at least \$20 but not more than \$40 for each acre so burned. Any amounts collected by the department pursuant to this subsection shall be deposited with the State Treasurer to the credit of the General Fund and shall be available for general governmental expense. As used in this subsection, "open field burning" does not include propane flaming of mint stubble.

CLEAN DIESEL IN PUBLIC CONTRACTS

SECTION 17. Section 18 of this 2019 Act is added to and made a part of the Public Contracting Code.

SECTION 18. (1) As used in this section, "diesel engine," "nonroad diesel engine" and "motor vehicle" have the meanings given those terms in ORS 468A.795.

(2) Except as provided in subsection (4) of this section, a public improvement contract must require at least 80 percent of the total fleet of motor vehicles that are motor vehicles powered by diesel engines and equipment powered by nonroad diesel engines used on site and in the course of performing the contract to be:

(a) Motor vehicles powered by model year 2010 or newer diesel engines; and

(b) Equipment powered by nonroad diesel engines, whether or not capable of being powered by alternative fuel, that meet or exceed United States Environmental Protection Agency Tier 4 exhaust emission standards for nonroad compression ignition engines.

(3) Subsection (2) of this section applies only to a public improvement contract for a public improvement:

(a) With a value of \$20 million or more;

(b) For which the contracting agency is a state contracting agency; and

(c) If the public improvement is located within Multnomah, Clackamas or Washington County.

(4)(a) The Department of Environmental Quality may by order establish minimum standards for contract specifications relating to the use of diesel engines in the course of performing a public improvement contract by a state contracting agency. In establishing standards under this subsection, the department shall take into consideration methods for assisting contractors certified, under ORS 200.055, as disadvantaged business enterprises, minority-owned businesses, women-owned businesses, businesses owned by service-disabled veterans or emerging small businesses in complying with the minimum standards for contract specifications.

(b) The Director of Transportation, the Director of the Oregon Department of Administrative Services and the Attorney General may adopt rules for contract specifications relating to the use of diesel engines on site and in the course of performing a public improvement contract by a state contracting agency. In adopting rules under this paragraph, the directors and the Attorney General shall consider the minimum standards established by the Department of Environmental Quality under paragraph (a) of this subsection.

(c) As an alternative to meeting the requirements of subsection (2) of this section, a public improvement contract subject to subsection (2) of this section may include contract specifications that meet the minimum standards applicable to the public improvement contract under rules adopted pursuant to paragraph (b) of this subsection.

SECTION 18a. (1) Section 18 of this 2019 Act applies to public improvement contracts advertised or solicited on or after January 1, 2022, 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, 2022.

(2) Notwithstanding subsection (1) of this section, section 18 of this 2019 Act applies to any public improvement contract advertised or solicited on or after the effective date of this 2019 Act or, for a public improvement contract that is not advertised or solicited, any public improvement contract that a contracting agency enters into on or after the effective date of this 2019 Act, if the public improvement contract is for:

- (a) The Interstate 5 Rose Quarter Project;
- (b) The Interstate 205 Abernethy Bridge Project;
- (c) The Interstate 205 Freeway Widening Project;
- (d) The State Highway 217 Northbound Project; or
- (e) The State Highway 217 Southbound Project.

SUPPORTING BUSINESSES IN REDUCING DIESEL EMISSIONS TASK FORCE

SECTION 19. (1) The Supporting Businesses in Reducing Diesel Emissions Task Force is established.

(2) The task force consists of 11 members appointed as follows:

(a) The President of the Senate shall appoint one member from the majority party of the Senate and one member from the minority party of the Senate.

(b) The Speaker of the House of Representatives shall appoint one member from the majority party of the House of Representatives and one member from the minority party of the House of Representatives.

(c) The President and the Speaker shall coordinate to jointly appoint seven members as follows:

(A) One member of the public who is an elected official of a government entity having jurisdiction in an area with elevated concentrations of diesel particulate matter;

(B) Two members of the public who represent organizations concerned with the impacts of diesel emissions on health and communities;

(C) One member of the public who represents the trucking or freight industry;

(D) One member of the public who represents a business that operates equipment that is likely to be powered by diesel engines;

(E) One member of the public who represents contractors or businesses that retain the services of subcontractors that operate motor vehicles or equipment powered by diesel engines; and

(F) One member of the public who represents environmental justice communities.

(3) The task force shall:

(a) Consider public funding strategies for supporting businesses in reducing emissions from diesel engines used in the course of conducting business activities.

(b) Evaluate and develop recommendations related to funding strategies that shall include, but need not be limited to:

(A) Taxes;

(B) Fees;

(C) Contract requirements or funding set-asides; and

(D) Strategies employed by other states to accrue funds for diesel emissions reduction programs.

(c) Develop statewide incentive strategies to encourage replacement, repower or retrofitting of medium-duty trucks and heavy-duty trucks owned by owners located outside Multnomah, Clackamas or Washington County, taking into consideration the incentive strategies employed by adjoining states.

(d) Identify the barriers to small contractor participation in public contracting that exist under clean diesel in public contracting provisions.

(4) A majority of the voting members of the task force constitutes a quorum for the transaction of business.

(5) Official action by the task force requires the approval of a majority of the voting members of the task force, except that in the event of a tie vote, the vote of the chairperson shall decide the action.

(6) The task force shall elect one of its members to serve as chairperson.

(7) If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective.

(8) The task force shall first convene no later than September 15, 2019, and shall meet at times and places specified by the call of the chairperson or of a majority of the voting members of the task force.

(9) The task force may adopt rules necessary for the operation of the task force.

(10) The task force shall submit a report in the manner provided by ORS 192.245, and may include recommendations for legislation, to the interim committees of the Legislative Assembly related to environment and natural resources no later than September 15, 2020.

(11) The Legislative Policy and Research Director shall provide staff support to the task force.

(12) Members of the Legislative Assembly appointed to the task force are nonvoting members of the task force and may act in an advisory capacity only.

(13) Members of the task force who are not members of the Legislative Assembly are not entitled to compensation or reimbursement for expenses and serve as volunteers on the task force.

(14) All agencies of state government, as defined in ORS 174.111, are directed to assist the task force in the performance of the duties of the task force and, to the extent permitted by laws relating to confidentiality, to furnish information and advice the members of the task force consider necessary to perform their duties.

SECTION 20. Section 19 of this 2019 Act is repealed on December 31, 2020.

MISCELLANEOUS

SECTION 21. ORS 468A.803 is amended to read:

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

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

(b) Grants and loans to the owners and operators of diesel engines for up to 100 percent of the certified costs of qualifying retrofits as described in ORS 468A.797 and 468A.799;

(c) Grants and loans to the owners and operators of nonroad diesel engines for up to 25 percent of the certified costs of qualifying repowers as described in ORS 468A.797 and 468A.799; and

(d) Grants to the owners of Oregon diesel truck engines to scrap those engines.

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

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

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

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

(4) The department may certify third parties to perform qualifying replacements, repowers and retrofits and may contract with third parties to perform such services for the certified costs of

qualifying replacements, repowers and retrofits. The department may also contract with institutions of higher education or other public bodies as defined by ORS 174.109 to train and certify third parties to perform qualifying replacements, repowers and retrofits.

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

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

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

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

(9) Except as provided in subsection (8) of this section, the department may use the moneys in the Clean Diesel Engine Fund to pay expenses of the department in administering the program described in ORS 468A.795 to 468A.807.

SECTION 22. (1) Sections 3 to 7, 14 and 15 of this 2019 Act and the amendments to statutes by sections 1, 2, 8 to 13 and 21 of this 2019 Act become operative on January 1, 2020.

(2) The Environmental Quality Commission, the Department of Environmental Quality and the Department of Transportation may take any action before the operative date specified in subsection (1) of this section that is necessary for the commission and the departments 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 departments by sections 3 to 7, 14 and 15 of this 2019 Act and the amendments to statutes by sections 1, 2, 8 to 13 and 21 of this 2019 Act.

SECTION 23. In addition to and not in lieu of any other appropriation, there is appropriated to the Department of Environmental Quality, for the biennium beginning July 1, 2019, out of the General Fund, the amount of \$407,718, which may be expended to carry out the duties of the department under this 2019 Act.

SECTION 24. The unit captions used in this 2019 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 2019 Act.

SECTION 25. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on its passage.

Passed by House June 25, 2019

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate June 30, 2019

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2019

Approved:

.....M,....., 2019

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2019

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Bev Clarno, Secretary of State