

Minority Report
A-Engrossed
Senate Bill 324

Ordered by the Senate February 11
Including Senate Minority Report Amendments dated February 11

Sponsored by nonconcurring members of the Senate Committee on Environment and Natural Resources: Senators OLSEN, THOMSEN

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.

Repeals sunset on provisions related to low carbon fuel standards.

Prohibits Environmental Quality Commission from requiring compliance with low carbon fuel standards if division of Oregon Department of Administrative Services that serves as office of economic analysis finds that projected incremental cost of compliance would exceed four percent of projected average annual cost of gasoline or diesel in Oregon. Requires commission to suspend requirements to comply with low carbon fuel standards upon certain findings by division. Allows commission to reinstate requirements to comply with low carbon fuel standards upon certain findings by division.

Refers Act to people for their approval or rejection at special election to be held throughout state in November 2015.

[Declares emergency, effective on passage.]

A BILL FOR AN ACT

1
2 Relating to reducing greenhouse gas emissions from transportation fuels; creating new provisions;
3 amending sections 6 and 9, chapter 754, Oregon Laws 2009; repealing sections 7 and 8, chapter
4 754, Oregon Laws 2009; and providing that this Act shall be referred to the people for their
5 approval or rejection.

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

7 **SECTION 1. Sections 7 and 8, chapter 754, Oregon Laws 2009, are repealed.**

8 **SECTION 2. Section 6, chapter 754, Oregon Laws 2009, is amended to read:**

9 **Sec. 6. (1) As used in this section and section 3 of this 2015 Act:**

10 (a) "Greenhouse gas" has the meaning given that term in ORS 468A.210.

11 (b) **"Incremental cost of compliance" is the difference between the actual or projected**
12 **12-month rolling weighted average price of gasoline and diesel in Oregon during a period that**
13 **low carbon fuel standards are being enforced and the actual or projected 12-month rolling**
14 **weighted average price of gasoline and diesel in Oregon during a period that low carbon fuel**
15 **standards are not being enforced.**

16 [(b)] (c) "Low carbon fuel standards" means standards for the reduction of greenhouse gas
17 emissions, on average, per unit of fuel energy.

18 [(c)] (d) "Motor vehicle" has the meaning given that term in ORS 801.360.

19 [(d)] (e) "PADD 5 region" means the Petroleum Administration for Defense District 5 states of
20 Arizona, Nevada, Oregon and Washington.

21 (2)(a) The Environmental Quality Commission may adopt by rule low carbon fuel standards for

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.

1 gasoline, diesel and fuels used as substitutes for gasoline or diesel.

2 (b) The commission may adopt the following related to the standards, including but not limited
3 to:

4 (A) A schedule to phase in implementation of the standards in a manner that reduces the aver-
5 age amount of greenhouse gas emissions per unit of fuel energy of the fuels by 10 percent below 2010
6 levels by the year 2020;

7 (B) Standards for greenhouse gas emissions attributable to the fuels throughout their lifecycles,
8 including but not limited to emissions from the production, storage, transportation and combustion
9 of the fuels and from changes in land use associated with the fuels;

10 (C) Provisions allowing the use of all types of low carbon fuels to meet the low carbon fuel
11 standards, including but not limited to biofuels, biogas, compressed natural gas, gasoline, diesel,
12 hydrogen and electricity;

13 (D) Standards for the issuance of deferrals, established with adequate lead time, as necessary
14 to ensure adequate fuel supplies;

15 (E) Exemptions for liquefied petroleum gas and other alternative fuels that are used in volumes
16 below thresholds established by the commission;

17 (F) Standards, specifications, testing requirements and other measures as needed to ensure the
18 quality of fuels produced in accordance with the low carbon fuel standards, including but not limited
19 to the requirements of ORS 646.910 to 646.923 and administrative rules adopted by the State De-
20 partment of Agriculture for motor fuel quality; and

21 (G) Adjustments to the amounts of greenhouse gas emissions per unit of fuel energy assigned to
22 fuels for combustion and drive train efficiency.

23 (c) Before adopting standards under this section, the commission shall consider the low carbon
24 fuel standards of other states, including but not limited to Washington, for the purpose of deter-
25 mining schedules and goals for the reduction of the average amount of greenhouse gas emissions per
26 unit of fuel energy and the default values for these reductions for applicable fuels.

27 *[(d) The commission shall provide exemptions and deferrals as necessary to mitigate the costs of*
28 *complying with the low carbon fuel standards upon a finding by the commission that the 12-month*
29 *rolling weighted average price of gasoline or diesel in Oregon is not competitive with the 12-month*
30 *rolling weighted average price in the PADD 5 region.]*

31 **(d)(A) The commission may not require compliance with the low carbon fuel standards**
32 **until the division of the Oregon Department of Administrative Services that serves as the**
33 **office of economic analysis finds, under section 3 of this 2015 Act, that the incremental cost**
34 **of compliance with the low carbon fuel standards during the first compliance year will not**
35 **exceed four percent of the projected average annual retail price of gasoline or diesel in**
36 **Oregon.**

37 **(B) The commission shall suspend any implemented requirements to comply with the low**
38 **carbon fuel standards during a compliance year if, by January 1 of the compliance year, the**
39 **findings and analysis required by section 3 of this 2015 Act indicate that the incremental cost**
40 **of compliance with the low carbon fuel standards during the compliance year will exceed four**
41 **percent of the projected average annual retail price of gasoline or diesel in Oregon.**

42 **(C) Following a suspension of compliance requirements under subparagraph (B) of this**
43 **paragraph, the commission may reinstate requirements to comply with the low carbon fuel**
44 **standards upon findings and analysis required by section 3 of this 2015 Act that, for the re-**
45 **mainder of the compliance year, the incremental cost of compliance is not projected to ex-**

1 **ceed four percent of the 12-month rolling weighted average price of gasoline or diesel in**
 2 **Oregon.**

3 (3) In adopting rules under this section, the Environmental Quality Commission shall evaluate:

4 (a) Safety, feasibility, net reduction of greenhouse gas emissions and cost-effectiveness;

5 (b) Potential adverse impacts to public health and the environment, including but not limited to
 6 air quality, water quality and the generation and disposal of waste in this state;

7 (c) Flexible implementation approaches to minimize compliance costs; and

8 (d) Technical and economic studies of comparable greenhouse gas emissions reduction measures
 9 implemented in other states and any other studies as determined by the commission.

10 (4) The provisions of this section do not apply to:

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

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

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

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

15 **SECTION 3. (1) The division of the Oregon Department of Administrative Services that**
 16 **serves as the office of economic analysis shall:**

17 (a) **Monitor and make findings on the actual and projected effect of the incremental cost**
 18 **of compliance with the low carbon fuel standards under section 6, chapter 754, Oregon Laws**
 19 **2009, on the 12-month rolling weighted average price of gasoline and diesel in Oregon;**

20 (b) **Monitor and make findings on the actual and projected effect of the incremental cost**
 21 **of compliance with the low carbon fuel standards on the average annual price of gasoline and**
 22 **diesel in Oregon;**

23 (c) **Analyze the competitiveness of the 12-month rolling weighted average price of gaso-**
 24 **line and diesel in Oregon with the 12-month rolling weighted average price in the PADD 5**
 25 **region; and**

26 (d) **Make the findings and analysis required under this subsection available to, and coord-**
 27 **inate with, the Environmental Quality Commission as is necessary for the commission to**
 28 **comply with section 6 (2)(d), chapter 754, Oregon Laws 2009.**

29 (2) **The department may adopt rules as necessary for the division of the department that**
 30 **serves as the office of economic analysis to carry out the provisions of this section.**

31 **SECTION 4.** Section 9, chapter 754, Oregon Laws 2009, is amended to read:

32 **Sec. 9. (1) The Department of Environmental Quality shall report on the implementation of ORS**
 33 **468A.270 and section 6, chapter 754, Oregon Laws 2009, to the Seventy-eighth Legislative**
 34 **Assembly in the manner provided by ORS 192.245. [sections 3 and 6 of this 2009 Act to:]**

35 [(a) *The interim legislative committees on environment and natural resources on or before Decem-*
 36 *ber 31, 2010; and]*

37 [(b) *The Seventy-sixth, Seventy-seventh and Seventy-eighth Legislative Assemblies in the manner*
 38 *provided by ORS 192.245.]*

39 (2) The [reports] **report** required under subsection (1) of this section must contain a description
 40 of:

41 (a) Rules adopted under [sections 3 and 6 of this 2009 Act] **ORS 468A.270 and section 6, chapter**
 42 **754, Oregon Laws 2009;**

43 (b) The manner in which the Environmental Quality Commission complied with the requirements
 44 of [sections 3 and 6 of this 2009 Act] **ORS 468A.270 and section 6, chapter 754, Oregon Laws 2009,**
 45 **in adopting the rules; and**

1 (c) Significant policy decisions made by the commission in adopting rules under **ORS 468A.270**.
2 [*section 3 of this 2009 Act; and*]

3 [*(d) The anticipated effects of the December 31, 2015, repeal of sections 6 and 7 of this 2009 Act*
4 *on the availability of low carbon fuels and the development of biofuels production facilities and electric*
5 *vehicle infrastructure in Oregon.*]

6 **SECTION 5. This 2015 Act shall be submitted to the people for their approval or rejection**
7 **at a special election to be held throughout this state in November 2015.**

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