

Enrolled House Bill 2075

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Revenue)

CHAPTER

AN ACT

Relating to aircraft fuel; creating new provisions; amending ORS 319.020 and 319.330; prescribing an effective date; and providing for revenue raising that requires approval by a three-fifths majority.

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

SECTION 1. ORS 319.020 is amended to read:

319.020. (1) Subject to subsections (2) to (4) of this section, in addition to the taxes otherwise provided for by law, every dealer engaging in the dealer's own name, or in the name of others, in the first sale, use or distribution of motor vehicle fuel or aircraft fuel or withdrawal of motor vehicle fuel or aircraft fuel for sale, use or distribution within areas in this state within which the state lacks the power to tax the sale, use or distribution of motor vehicle fuel or aircraft fuel, shall:

(a) Not later than the 25th day of each calendar month, render a statement to the Department of Transportation of all motor vehicle fuel or aircraft fuel sold, used, distributed or so withdrawn by the dealer in the State of Oregon as well as all such fuel sold, used or distributed in this state by a purchaser thereof upon which sale, use or distribution the dealer has assumed liability for the applicable license tax during the preceding calendar month. The dealer shall render the statement to the department in the manner provided by the department by rule.

(b) Except as provided in ORS 319.270, pay a license tax computed on the basis of 30 cents per gallon on the first sale, use or distribution of such motor vehicle fuel or aircraft fuel so sold, used, distributed or withdrawn as shown by such statement in the manner and within the time provided in ORS 319.010 to 319.430.

(2) When aircraft fuel is sold, used or distributed by a dealer, the license tax shall be computed on the basis of *[nine]* **11** cents per gallon of fuel so sold, used or distributed, except that when aircraft fuel usable in aircraft operated by turbine engines (turbo-prop or jet) is sold, used or distributed, the tax rate shall be *[one cent]* **three cents** per gallon.

(3) In lieu of claiming refund of the tax paid on motor vehicle fuel consumed by such dealer in nonhighway use as provided in ORS 319.280, 319.290 and 319.320, or of any prior erroneous payment of license tax made to the state by such dealer, the dealer may show such motor vehicle fuel as a credit or deduction on the monthly statement and payment of tax.

(4) The license tax computed on the basis of the sale, use, distribution or withdrawal of motor vehicle or aircraft fuel may not be imposed wherever such tax is prohibited by the Constitution or laws of the United States with respect to such tax.

SECTION 2. ORS 319.330 is amended to read:

319.330. (1) Whenever any statement and invoices are presented to the Department of Transportation showing that motor vehicle fuel or aircraft fuel has been purchased and used in operating aircraft engines and upon which the full tax for motor vehicle fuel has been paid, the department shall refund the tax paid, but only after deducting from the tax paid [nine] **11 cents** for each gallon of such fuel so purchased and used, except that when such fuel is used in operating aircraft turbine engines (turbo-prop or jet) the deduction shall be [one cent] **three cents** for each gallon. No deduction provided under this subsection shall be made on claims presented by the United States or on claims presented where a satisfactory showing has been made to the department that such aircraft fuel has been used solely in aircraft operations from a point within the State of Oregon directly to a point not within any state of the United States. The amount so deducted shall be paid on warrant of the Oregon Department of Administrative Services to the State Treasurer, who shall credit the amount to the State Aviation Account for the purpose of carrying out the provisions of the state aviation law. Moneys credited to the account under this section are continuously appropriated to the Oregon Department of Aviation.

(2) If satisfactory evidence is presented to the Department of Transportation showing that aircraft fuel upon which the tax has been paid has been purchased and used solely in aircraft operations from a point within the State of Oregon directly to a point not within any state of the United States, the department shall refund the tax paid.

SECTION 3. (1) The amendments to ORS 319.020 by section 1 of this 2015 Act apply to aircraft fuel sold, used or distributed on or after January 1, 2016, and before January 1, 2022.

(2) The amendments to ORS 319.330 by section 2 of this 2015 Act apply to fuel purchased and used in operating aircraft engines on or after January 1, 2016, and before January 1, 2022.

SECTION 4. ORS 319.020, as amended by section 1 of this 2015 Act, is amended to read:

319.020. (1) Subject to subsections (2) to (4) of this section, in addition to the taxes otherwise provided for by law, every dealer engaging in the dealer's own name, or in the name of others, in the first sale, use or distribution of motor vehicle fuel or aircraft fuel or withdrawal of motor vehicle fuel or aircraft fuel for sale, use or distribution within areas in this state within which the state lacks the power to tax the sale, use or distribution of motor vehicle fuel or aircraft fuel, shall:

(a) Not later than the 25th day of each calendar month, render a statement to the Department of Transportation of all motor vehicle fuel or aircraft fuel sold, used, distributed or so withdrawn by the dealer in the State of Oregon as well as all such fuel sold, used or distributed in this state by a purchaser thereof upon which sale, use or distribution the dealer has assumed liability for the applicable license tax during the preceding calendar month. The dealer shall render the statement to the department in the manner provided by the department by rule.

(b) Except as provided in ORS 319.270, pay a license tax computed on the basis of 30 cents per gallon on the first sale, use or distribution of such motor vehicle fuel or aircraft fuel so sold, used, distributed or withdrawn as shown by such statement in the manner and within the time provided in ORS 319.010 to 319.430.

(2) When aircraft fuel is sold, used or distributed by a dealer, the license tax shall be computed on the basis of [11] **nine cents** per gallon of fuel so sold, used or distributed, except that when aircraft fuel usable in aircraft operated by turbine engines (turbo-prop or jet) is sold, used or distributed, the tax rate shall be [three cents] **one cent** per gallon.

(3) In lieu of claiming refund of the tax paid on motor vehicle fuel consumed by such dealer in nonhighway use as provided in ORS 319.280, 319.290 and 319.320, or of any prior erroneous payment of license tax made to the state by such dealer, the dealer may show such motor vehicle fuel as a credit or deduction on the monthly statement and payment of tax.

(4) The license tax computed on the basis of the sale, use, distribution or withdrawal of motor vehicle or aircraft fuel may not be imposed wherever such tax is prohibited by the Constitution or laws of the United States with respect to such tax.

SECTION 5. ORS 319.330, as amended by section 2 of this 2015 Act, is amended to read:

319.330. (1) Whenever any statement and invoices are presented to the Department of Transportation showing that motor vehicle fuel or aircraft fuel has been purchased and used in operating aircraft engines and upon which the full tax for motor vehicle fuel has been paid, the department shall refund the tax paid, but only after deducting from the tax paid [11] **nine** cents for each gallon of such fuel so purchased and used, except that when such fuel is used in operating aircraft turbine engines (turbo-prop or jet) the deduction shall be [*three cents*] **one cent** for each gallon. No deduction provided under this subsection shall be made on claims presented by the United States or on claims presented where a satisfactory showing has been made to the department that such aircraft fuel has been used solely in aircraft operations from a point within the State of Oregon directly to a point not within any state of the United States. The amount so deducted shall be paid on warrant of the Oregon Department of Administrative Services to the State Treasurer, who shall credit the amount to the State Aviation Account for the purpose of carrying out the provisions of the state aviation law. Moneys credited to the account under this section are continuously appropriated to the Oregon Department of Aviation.

(2) If satisfactory evidence is presented to the Department of Transportation showing that aircraft fuel upon which the tax has been paid has been purchased and used solely in aircraft operations from a point within the State of Oregon directly to a point not within any state of the United States, the department shall refund the tax paid.

SECTION 6. (1) The amendments to ORS 319.020 by section 4 of this 2015 Act apply to aircraft fuel sold, used or distributed on or after January 1, 2022.

(2) The amendments to ORS 319.330 by section 5 of this 2015 Act apply to fuel purchased and used in operating aircraft engines on or after January 1, 2022.

SECTION 7. (1) The following amounts shall be distributed in the manner prescribed in this section:

(a) Any amount of tax on aircraft fuel usable in aircraft operated by turbine engines that is computed on a basis in excess of one cent per gallon and any amount of tax on all other aircraft fuel that is computed on a basis in excess of nine cents per gallon, under ORS 319.020 (2); and

(b) Any amount of tax on aircraft fuel usable in aircraft operated by turbine engines in excess of one cent per gallon and any amount of tax on all other aircraft fuel in excess of nine cents per gallon, that is deducted before the refunding of tax under ORS 319.330 (1).

(2) Applications for distributions under this section may not be approved unless the applicant demonstrates a commitment to contribute at least five percent of the costs of the project to which the application relates. The Oregon Department of Aviation shall adopt rules for purposes of this subsection.

(3)(a) The State Aviation Board shall establish a review committee composed of one member from each of the area commissions on transportation chartered by the Oregon Transportation Commission.

(b) The review committee shall meet as necessary to review applications for distributions of amounts pursuant to this section. The criteria specified in ORS 367.084 (3) apply to the review process of the review committee.

(c) The review committee shall recommend applications to the State Aviation Board, which shall select applications with the following priority:

(A) First, to applications filed pursuant to subsection (5)(a)(A) of this section;

(B) Second, to applications filed with respect to safety and infrastructure development; and

(C) Third, to applications filed with respect to aviation-related economic benefits related to airports.

(4)(a) Five percent of the amounts described in subsection (1) of this section are appropriated to the Oregon Department of Aviation for the costs of the department and the State Aviation Board in administering this section.

(b) The remaining 95 percent of the amounts described in subsection (1) of this section shall be distributed pursuant to subsections (5) to (7) of this section.

(5)(a) Fifty percent of the amounts described in subsection (4)(b) of this section shall be distributed for the following purposes:

(A) To assist airports in Oregon with match requirements for Federal Aviation Administration Airport Improvement Program grants.

(B) To make grants for emergency preparedness and infrastructure projects, in accordance with the Oregon Resilience Plan, including grants for emergency management plan development, seismic studies and emergency generators and similar equipment.

(C) To make grants for:

(i) Services critical or essential to aviation, including, but not limited to, fuel, sewer, water and weather equipment.

(ii) Aviation-related business development, including, but not limited to, hangars, parking for business aircraft and related facilities.

(iii) Airport development for local economic benefit, including, but not limited to, signs and marketing.

(b) Priority in distributing grants shall be given to projects for which applicants demonstrate a commitment to contribute the greatest amounts toward the costs of the projects to which the applications relate.

(6) Twenty-five percent of the amounts described in subsection (4)(b) of this section shall be distributed for the purpose of assisting commercial air service to rural Oregon.

(7) Twenty-five percent of the amounts described in subsection (4)(b) of this section shall be distributed to state-owned airports for the purposes of:

(a) Safety improvements recommended by the State Aviation Board and local community airports.

(b) Infrastructure projects at public use airports.

(8)(a) The State Aviation Board shall submit reports, in the manner provided in ORS 192.245 and paragraph (b) of this subsection, that describe in detail the projects for which applications have been submitted and approved, the airports affected, the names of the applicants and the persons who will perform the work proposed in the applications, the progress of projects for which applications have been approved and any other information the board considers necessary for a comprehensive analysis of the implementation of this section.

(b) The reports described in paragraph (a) of this subsection shall be submitted:

(A) Not later than February 10 of each year to the committees of the Legislative Assembly related to air transportation; and

(B) Not later than September 30 of each year to the interim committees of the Legislative Assembly related to air transportation.

SECTION 8. (1) Section 7 of this 2015 Act is repealed on January 2, 2022.

(2) Amounts described in section 7 (1) of this 2015 Act that are uncommitted on the date specified in subsection (1) of this section for distributions made pursuant to section 7 (5) to (7) of this 2015 Act may be expended as other aviation fuel tax revenues are expended.

SECTION 9. Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 1 (1), chapter 329, Oregon Laws 2015 (Enrolled House Bill 5004), for the biennium beginning July 1, 2015, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by the Oregon Department of Aviation, is increased by \$231,766 for personnel costs to administer aviation grants and programs.

SECTION 10. Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 1 (5), chapter 329, Oregon Laws 2015 (Enrolled House Bill 5004), for the biennium beginning July 1, 2015, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery

funds and federal funds, collected or received by the Oregon Department of Aviation, is increased by \$5,018,905 for aviation grants and programs.

SECTION 11. This 2015 Act takes effect on the 91st day after the date on which the 2015 regular session of the Seventy-eighth Legislative Assembly adjourns sine die.

Passed by House June 29, 2015

.....
Timothy G. Sekerak, Chief Clerk of House

.....
Tina Kotek, Speaker of House

Passed by Senate July 1, 2015

.....
Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2015

Approved:

.....M.,....., 2015

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2015

.....
Jeanne P. Atkins, Secretary of State