

# Enrolled Senate Bill 324

Sponsored by Senators BEYER, GELSER, DEMBROW, EDWARDS; Senators BATES, BURDICK, MONNES ANDERSON, PROZANSKI, RILEY, ROBLAN, ROSENBAUM, SHIELDS, STEINER HAYWARD, Representatives BARNHART, BUCKLEY, FREDERICK, REARDON, SMITH WARNER, VEGA PEDERSON (Pre-session filed.)

CHAPTER .....

## AN ACT

Relating to reducing greenhouse gas emissions from transportation fuels; creating new provisions; amending sections 6 and 9, chapter 754, Oregon Laws 2009; repealing sections 7 and 8, chapter 754, Oregon Laws 2009; and declaring an emergency.

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

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 Sections 7 and 8, chapter 754, Oregon Laws 2009, are repealed.**

**SECTION 2. Section 6, chapter 754, Oregon Laws 2009, is added to and made a part of ORS chapter 468A.**

**SECTION 3.** Section 6, chapter 754, Oregon Laws 2009, is amended to read:

**Sec. 6.** (1) As used in this section:

- (a) "Greenhouse gas" has the meaning given that term in ORS 468A.210.
- (b) "Low carbon fuel standards" means standards for the reduction of greenhouse gas emissions, on average, per unit of fuel energy.
- (c) "Motor vehicle" has the meaning given that term in ORS 801.360.
- [(d) "PADD 5 region" means the Petroleum Administration for Defense District 5 states of Arizona, Nevada, Oregon and Washington.]*

(2)(a) The Environmental Quality Commission *[may]* **shall** adopt by rule low carbon fuel standards for gasoline, diesel and fuels used as substitutes for gasoline or diesel.

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

(A) A schedule to phase in implementation of the standards in a manner that reduces the average amount of greenhouse gas emissions per unit of fuel energy of the fuels by 10 percent below 2010 levels by the year *[2020]* **2025 or by a later date if the commission determines that an extension is appropriate to implement the standards;**

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

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

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

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

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

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

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

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

**(d) The commission shall adopt by rule provisions for managing and containing the costs of compliance with the standards, including but not limited to provisions to facilitate compliance with the standards by ensuring that persons may obtain credits for fuels used as substitutes for gasoline or diesel and by creating opportunities for persons to trade credits.**

**(e) The commission shall exempt from the standards any person who imports in a calendar year less than 500,000 gallons of gasoline and diesel fuel, in total. Any fuel imported by persons that are related or share common ownership or control shall be aggregated together to determine whether a person is exempt under this paragraph.**

**(f)(A) The commission by rule shall prohibit fuels that contain biodiesel from being considered an alternative fuel under these standards unless the fuel meets the following standards:**

**(i) Fuel that consists entirely of biodiesel, designated as B100, shall comply with ASTM D 6751 and shall have an oxidation stability induction period of not less than eight hours as determined by the test method described in European standard EN 15751; and**

**(ii) Fuel that consists of a blend of diesel fuel and between 6 and 20 volume percent biodiesel, and designated as biodiesel blends B6 to B20, shall comply with ASTM D 7467 and shall have an oxidation stability induction period of not less than 20 hours as determined by the test method described in European standard EN 15751.**

**(B) The commission may adopt rules different from those required under subparagraph (A) of this paragraph if an ASTM or EN standard applicable to biodiesel is approved or amended after the effective date of this 2015 Act or if the commission finds that different rules are necessary due to changes in technology or fuel testing or production methods.**

**(C) As used in this subsection, "biodiesel" means a motor vehicle fuel consisting of mono-alkyl esters of long chain fatty acids derived from vegetable oils, animal fats or other nonpetroleum resources, not including palm oil.**

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

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

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

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

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

**(4)(a) The provisions of this section do not apply to fuel that is demonstrated to have been used in any of the following:**

**[(a)] (A) Motor vehicles registered as farm vehicles under the provisions of ORS 805.300.**

**[(b)] (B) Farm tractors, as defined in ORS 801.265.**

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

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

(E) **Motor vehicles that are not designed primarily to transport persons or property, that are operated on highways only incidentally, and that are used primarily for construction work.**

(F) **Watercraft.**

(G) **Railroad locomotives.**

(b) **The Environmental Quality Commission shall by rule adopt standards for persons to qualify for the exemptions provided in this subsection.**

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

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

[(a)] *The interim legislative committees on environment and natural resources on or before December 31, 2010; and]*

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

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

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

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

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

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

**SECTION 5. This 2015 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect on its passage.**

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**Passed by Senate February 17, 2015**

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

**Passed by House March 4, 2015**

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Tina Kotek, Speaker of House

**Received by Governor:**

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

**Approved:**

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

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Kate Brown, Governor

**Filed in Office of Secretary of State:**

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

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Secretary of State