

Enrolled
House Bill 2435

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

CHAPTER

AN ACT

Relating to energy; creating new provisions; amending ORS 319.530 and 757.300; and prescribing an effective date.

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

SECTION 1. ORS 319.530 is amended to read:

319.530. (1) To compensate this state partially for the use of its highways, an excise tax hereby is imposed at the rate of 30 cents per gallon on the use of fuel in a motor vehicle.

(2) Except as otherwise provided in subsections [(2) and (3)] **(3) and (4)** of this section, 100 cubic feet of fuel used or sold in a gaseous state, measured at 14.73 pounds per square inch of pressure at 60 degrees Fahrenheit, is taxable at the same rate as a gallon of liquid fuel.

[(2)] **(3)** One hundred twenty cubic feet of compressed natural gas used or sold in a gaseous state, measured at 14.73 pounds per square inch of pressure at 60 degrees Fahrenheit, is taxable at the same rate as a gallon of liquid fuel.

[(3)] **(4)** One and three-tenths liquid gallons of propane at 60 degrees Fahrenheit is taxable at the same rate as a gallon of other liquid fuel.

(5)(a) Except as provided in paragraph (b) of this subsection, the excise tax imposed under subsection (1) of this section does not apply to diesel fuel blended with a minimum of 20 percent biodiesel that is derived from used cooking oil.

(b) The exemption provided under paragraph (a) of this subsection does not apply to fuel:

(A) Used in motor vehicles that have a gross vehicle weight rating of 26,001 pounds or more;

(B) That is not sold in retail operations; or

(C) That is sold in operations involving fleet fueling or bulk sales.

SECTION 2. The amendments to ORS 319.530 by section 1 of this 2013 Act apply to fuel sold on or after January 1, 2014.

SECTION 3. ORS 319.530, as amended by section 1 of this 2013 Act, is amended to read:

319.530. (1) To compensate this state partially for the use of its highways, an excise tax hereby is imposed at the rate of 30 cents per gallon on the use of fuel in a motor vehicle.

(2) Except as otherwise provided in subsections (3) and (4) of this section, 100 cubic feet of fuel used or sold in a gaseous state, measured at 14.73 pounds per square inch of pressure at 60 degrees Fahrenheit, is taxable at the same rate as a gallon of liquid fuel.

(3) One hundred twenty cubic feet of compressed natural gas used or sold in a gaseous state, measured at 14.73 pounds per square inch of pressure at 60 degrees Fahrenheit, is taxable at the same rate as a gallon of liquid fuel.

(4) One and three-tenths liquid gallons of propane at 60 degrees Fahrenheit is taxable at the same rate as a gallon of other liquid fuel.

[(5)(a) Except as provided in paragraph (b) of this subsection, the excise tax imposed under subsection (1) of this section does not apply to diesel fuel blended with a minimum of 20 percent biodiesel that is derived from used cooking oil.]

[(b) The exemption provided under paragraph (a) of this subsection does not apply to fuel:]

[(A) Used in motor vehicles that have a gross vehicle weight rating of 26,001 pounds or more;]

[(B) That is not sold in retail operations; or]

[(C) That is sold in operations involving fleet fueling or bulk sales.]

SECTION 4. The amendments to ORS 319.530 by section 3 of this 2013 Act apply to fuel sold on or after January 1, 2020.

SECTION 5. ORS 757.300 is amended to read:

757.300. (1) As used in this section:

(a) "Customer-generator" means a user of a net metering facility.

(b) "Electric utility" means a public utility, a people's utility district operating under ORS chapter 261, a municipal utility operating under ORS chapter 225 or an electric cooperative organized under ORS chapter 62.

(c) "Net metering" means measuring the difference between the electricity supplied by an electric utility and the electricity generated by a customer-generator and fed back to the electric utility over the applicable billing period.

(d) "Net metering facility" means a facility for the production of electrical energy that:

(A) Generates electricity using:

(i) Solar power[.];

(ii) Wind power[.];

(iii) Fuel cells[.];

(iv) Hydroelectric power[.];

(v) Landfill gas[.];

(vi) Digester gas[.];

(vii) Waste[.];

(viii) Dedicated energy crops available on a renewable basis *[or]*;

(ix) Low-emission, nontoxic biomass based on solid organic fuels from wood, forest or field residues; **or**

(x) **Geothermal energy;**

(B) Is located on the customer-generator's premises;

(C) Can operate in parallel with an electric utility's existing transmission and distribution facilities; and

(D) Is intended primarily to offset part or all of the customer-generator's requirements for electricity.

(2) An electric utility that offers residential and commercial electric service:

(a) Shall allow net metering facilities to be interconnected using a standard meter that is capable of registering the flow of electricity in two directions.

(b) May at its own expense install one or more additional meters to monitor the flow of electricity in each direction.

(c) May not charge a customer-generator a fee or charge that would increase the customer-generator's minimum monthly charge to an amount greater than that of other customers in the same rate class as the customer-generator. However, the Public Utility Commission, for a public utility, or the governing body, for a municipal electric utility, electric cooperative or people's utility district, may authorize an electric utility to assess a greater fee or charge, of any type, if the electric utility's direct costs of interconnection and administration of the net metering outweigh the distribution system, environmental and public policy benefits of allocating such costs among the electric utility's entire customer base. The commission may authorize a public utility to assess a greater fee or charge under this paragraph only following notice and opportunity for public comment. The

governing body of a municipal electric utility, electric cooperative or people's utility district may assess a greater fee or charge under this paragraph only following notice and opportunity for comment from the customers of the utility, cooperative or district.

(3)(a) For a customer-generator, an electric utility shall measure the net electricity produced or consumed during the billing period in accordance with normal metering practices.

(b) If an electric utility supplies a customer-generator more electricity than the customer-generator feeds back to the electric utility during a billing period, the electric utility shall charge the customer-generator for the net electricity that the electric utility supplied.

(c) Except as provided in paragraph (d) of this subsection, if a customer-generator feeds back to an electric utility more electricity than the electric utility supplies the customer-generator during a billing period, the electric utility may charge the minimum monthly charge described in subsection (2) of this section but must credit the customer-generator for the excess kilowatt-hours generated during the billing period. An electric utility may value the excess kilowatt-hours at the avoided cost of the utility, as determined by the commission or the appropriate governing body. An electric utility that values the excess kilowatt-hours at the avoided cost shall bear the cost of measuring the excess kilowatt-hours, issuing payments and billing for the excess hours. The electric utility also shall bear the cost of providing and installing additional metering to measure the reverse flow of electricity.

(d) For the billing cycle ending in March of each year, or on such other date as agreed to by the electric utility and the customer-generator, any remaining unused kilowatt-hour credit accumulated during the previous year shall be granted to the electric utility for distribution to customers enrolled in the electric utility's low-income assistance programs, credited to the customer-generator or dedicated for other use as determined by the commission, for a public utility, or the governing body, for a municipal electric utility, electric cooperative or people's utility district, following notice and opportunity for public comment.

(4)(a) A net metering facility shall meet all applicable safety and performance standards established in the state building code. The standards shall be consistent with the applicable standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers and Underwriters Laboratories or other similarly accredited laboratory.

(b) Following notice and opportunity for public comment, the commission, for a public utility, or the governing body, for a municipal electric utility, electric cooperative or people's utility district, may adopt additional control and testing requirements for customer-generators to protect public safety or system reliability.

(c) An electric utility may not require a customer-generator whose net metering facility meets the standards in paragraphs (a) and (b) of this subsection to comply with additional safety or performance standards, perform or pay for additional tests or purchase additional liability insurance. However, an electric utility shall not be liable directly or indirectly for permitting or continuing to allow an attachment of a net metering facility, or for the acts or omissions of the customer-generator that cause loss or injury, including death, to any third party.

(5) Nothing in this section is intended to prevent an electric utility from offering, or a customer-generator from accepting, products or services related to the customer-generator's net metering facility that are different from the net metering services described in this section.

(6) The commission, for a public utility, or the governing body, for a municipal electric utility, electric cooperative or people's utility district, may not limit the cumulative generating capacity of solar, wind, **geothermal**, fuel cell and microhydroelectric net metering systems to less than one-half of one percent of a utility's, cooperative's or district's historic single-hour peak load. After a cumulative limit of one-half of one percent has been reached, the obligation of a public utility, municipal electric utility, electric cooperative or people's utility district to offer net metering to a new customer-generator may be limited by the commission or governing body in order to balance the interests of retail customers. When limiting net metering obligations under this subsection, the commission or the governing body shall consider the environmental and other public policy benefits of net metering systems. The commission may limit net metering obligations under this subsection only following notice and opportunity for public comment. The governing body of a municipal elec-

tric utility, electric cooperative or people's utility district may limit net metering obligations under this subsection only following notice and opportunity for comment from the customers of the utility, cooperative or district.

(7) The commission or the governing body may adopt rules or ordinances to ensure that the obligations and costs associated with net metering apply to all power suppliers within the service territory of a public utility, municipal electric utility, electric cooperative or people's utility district.

(8) This section applies only to net metering facilities that have a generating capacity of 25 kilowatts or less, except that the commission by rule may provide for a higher limit for customers of a public utility.

(9) Notwithstanding subsections (2) to (8) of this section, an electric utility serving fewer than 25,000 customers in Oregon that has its headquarters located in another state and offers net metering services or a substantial equivalent offset against retail sales in that state shall be deemed to be in compliance with this section if the electric utility offers net metering services to its customers in Oregon in accordance with tariffs, schedules and other regulations promulgated by the appropriate authority in the state where the electric utility's headquarters are located.

SECTION 6. This 2013 Act takes effect on the 91st day after the date on which the 2013 regular session of the Seventy-seventh Legislative Assembly adjourns sine die.

Passed by House May 7, 2013

Received by Governor:

Repassed by House July 3, 2013

.....M.,....., 2013

Approved:

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Ramona J. Line, Chief Clerk of House

.....M.,....., 2013

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Tina Kotek, Speaker of House

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John Kitzhaber, Governor

Passed by Senate July 2, 2013

Filed in Office of Secretary of State:

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Peter Courtney, President of Senate

.....M.,....., 2013

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Kate Brown, Secretary of State