

# House Bill 2725

Sponsored by Representative HELM, Senator PROZANSKI, Representative KENY-GUYER; Representatives MARSH, NOSSE, POWER, SANCHEZ, Senators DEMBROW, STEINER HAYWARD (Pre-session filed.)

## 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 **as introduced**.

Requires Environmental Quality Commission to adopt by rule grant program for providing funding to local service providers to develop and implement woodstove replacement rebate programs.

Appropriates moneys from General Fund to Department of Environmental Quality for awarding grants under grant program.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to wood smoke pollution; creating new provisions; amending ORS 468A.467, 468A.485,  
3 468A.490, 468A.505 and 468A.515; and declaring an emergency.

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

5 **SECTION 1.** ORS 468A.485 is amended to read:

6 468A.485. As used in ORS 468A.460 to 468A.515:

7 (1) **“Local service provider” means a local government, a regional authority, an economic**  
8 **development district as defined in ORS 285B.636 or a nonprofit organization.**

9 (2) “Masonry heater” has the meaning given that term in the American Society for Testing and  
10 Materials (ASTM) E1602-03, Standard Guide for Construction of Solid Fuel Burning Masonry Heat-  
11 ers, as in effect on January 1, 2010, or the meaning given that term by rule of the Environmental  
12 Quality Commission.

13 [(2)] (3) “Pellet stove” means a heating device that uses wood pellets, or other biomass fuels  
14 designed for use in pellet stoves, as its primary source of fuel.

15 (4) **“Regional authority” has the meaning given that term in ORS 468A.100.**

16 [(3)] (5) “Residential structure” has the meaning given that term in ORS 701.005.

17 [(4)(a)] (6)(a) “Solid fuel burning device” means any device that burns wood, coal or other  
18 nongaseous or nonliquid fuels for aesthetic, space-heating or water-heating purposes in a private  
19 residential structure or a commercial establishment and that has a heat output of less than one  
20 million British thermal units per hour.

21 (b) “Solid fuel burning device” does not include:

22 (A) Masonry fireplaces built on homesites, or factory-built fireplaces, that are designed to be  
23 used with an open combustion chamber, that are without features to control air-to-fuel ratios and  
24 that meet minimum emission performance standards adopted by the commission, or all masonry  
25 fireplaces and factory-built fireplaces if the commission does not adopt any standards;

26 (B) Woodstoves built before 1940 that have an ornate construction and a current market value  
27 substantially higher than a common woodstove manufactured during the same period;

28 (C) Pellet stoves that meet minimum emission performance standards adopted by the commission,

**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 or all pellet stoves if the commission does not adopt any standards;

2 (D) Masonry heaters that meet minimum emission performance standards adopted by the com-  
3 mission, or all masonry heaters if the commission does not adopt any standards;

4 (E) Central, wood-fired furnaces that are indoors, ducted and thermostatically controlled, that  
5 have a dedicated cold air inlet and a dedicated hot air outlet that connect to the heating ductwork  
6 for the entire residential structure and that meet minimum emission performance standards adopted  
7 by the commission, or all central, wood-fired furnaces if the commission does not adopt any stan-  
8 dards; and

9 (F) Other solid fuel burning devices identified in rules adopted by the commission.

10 [(5)(a)] (7)(a) "Trash burner" means any equipment that is used to dispose of waste by burning.

11 (b) "Trash burner" does not include an air contamination source that has been issued an air  
12 quality permit as described in ORS 468A.040.

13 [(6)] (8) "Treated wood" means wood of any species that has been chemically impregnated,  
14 painted or similarly modified to prevent weathering and deterioration.

15 **SECTION 2. (1) The Environmental Quality Commission shall adopt by rule a grant pro-**  
16 **gram for providing funding to local service providers to develop and implement woodstove**  
17 **replacement rebate programs. Rebate programs funded by grants awarded under the grant**  
18 **program must provide for rebates for replacement of solid fuel burning devices in residential**  
19 **structures that were not certified by the Department of Environmental Quality pursuant to**  
20 **ORS 468A.465 with new high-efficiency and low air contaminant-emitting heating systems.**

21 **(2) Rules adopted under this section must require the Department of Environmental**  
22 **Quality to prioritize the awarding of grants to fund rebate programs first to local service**  
23 **providers that serve maintenance areas or nonattainment areas, as those terms are defined**  
24 **in ORS 468A.040, and second to local service providers based on a scoring system that takes**  
25 **into account the following factors:**

26 **(a) The geographic diversity of the areas to be served by all grants awarded under the**  
27 **grant program;**

28 **(b) The degree of the local match proposed in the local service provider's grant applica-**  
29 **tion;**

30 **(c) The estimated percentage of low-income residents to be served by the rebate program;**  
31 **and**

32 **(d) Any existing or planned partnerships between the local service provider and other**  
33 **agencies that provide weatherization or low-income heating assistance.**

34 **(3) An application by a local service provider for a grant under the grant program**  
35 **adopted under this section must include, at a minimum, a description of:**

36 **(a) How the local service provider will develop and administer a woodstove replacement**  
37 **rebate program;**

38 **(b) The geographic area that the proposed rebate program will serve;**

39 **(c) The rebate funding amounts that will be awarded under the rebate program, including**  
40 **whether the local service provider will offer full or partial rebates and any incentives to be**  
41 **offered;**

42 **(d) Any other programs in the area served by the local service provider that will sup-**  
43 **plement the rebate program, including but not limited to public education programs, discount**  
44 **firewood programs, weatherization programs or programs to curtail residential solid fuel**  
45 **heating during periods of air stagnation;**

1 (e) How air quality improvements as a result of the rebate program will be measured;  
 2 and

3 (f) Partnerships or expected partnerships between the local service provider and other  
 4 organizations or state or federal agencies related to the rebate program.

5 (4)(a) The grant program adopted under this section must require local service providers  
 6 to provide a matching contribution as follows in order to receive grant funds:

7 (A) For a local service provider serving an area with a population of 10,000 or less, a 10  
 8 percent match.

9 (B) For a local service provider serving an area with a population of more than 10,000  
 10 but less than 50,000, a 15 percent match.

11 (C) For a local service provider serving an area with a population of 50,000 or more, a 25  
 12 percent match.

13 (b) If the area served by a local service provider has a population of less than 10,000, or  
 14 if low-income residents account for 25 percent or more of the population of the area served,  
 15 the match required by this subsection may be satisfied by an in-kind contribution.

16 (5) The grant program adopted under this section must require a local service provider  
 17 that receives a grant to report to the department on the rebate program funded by the grant  
 18 once every six months and to submit a final report to the department at the conclusion of  
 19 the rebate program funded by the grant.

20 **SECTION 3.** ORS 468A.490 is amended to read:

21 468A.490. (1) There is established within the State Treasury a fund known as the Residential  
 22 Solid Fuel Heating Air Quality Improvement Fund, separate and distinct from the General Fund.

23 (2) All moneys appropriated or received as gifts or grants for the purposes of this section shall  
 24 be credited to the Residential Solid Fuel Heating Air Quality Improvement Fund.

25 (3) The State Treasurer may invest and reinvest the moneys in the fund as provided in ORS  
 26 293.701 to 293.857. Interest from the moneys deposited in the fund and earnings from investment of  
 27 the moneys in the fund shall accrue to the fund.

28 (4) All moneys in the fund are continuously appropriated to the Department of Environmental  
 29 Quality to:

30 (a) Pay all costs incurred by the department for evaluating projects and programs, including  
 31 projects and programs proposed by local communities or qualifying organizations, for project man-  
 32 agement and oversight of funds awarded for projects and programs selected in accordance with this  
 33 section and for documenting the benefit to air quality from such projects;

34 (b) Fund the *[program established under subsection (5) of this section;]* **programs established**  
 35 **under subsection (5) of this section and section 2 of this 2017 Act;**

36 (c) Fund activities to enhance enforcement of ORS 468A.460 to 468A.515;

37 (d) Fund public education programs related to compliance with ORS 468A.460 to 468A.515; and

38 (e) Fund public education programs related to the benefits of the use of solid fuel burning de-  
 39 vices certified pursuant to ORS 468A.460 to 468A.515.

40 (5) The department shall use moneys available under subsection (4) of this section to establish  
 41 a program designed to reduce the emission of air contaminants by providing grants, loans or other  
 42 subsidies for the replacement or removal of solid fuel burning devices that were not certified by the  
 43 department pursuant to ORS 468A.465. In addition to any other requirements established by rules  
 44 adopted by the Environmental Quality Commission, the program shall provide that:

45 (a) All forms of new high-efficiency, low air contaminant-emitting heating systems are allowed,

1 except vent-free heating appliances;

2 (b) Any solid fuel burning device removed under the program must be destroyed;

3 (c) Any replacement device selected under the program must be installed in conformance with  
4 building code requirements and the manufacturer's specifications including but not limited to vent-  
5 ing specifications; and

6 (d) To be eligible, program participants shall participate in any home energy audit program  
7 provided at no charge to the homeowner and shall obtain all information available regarding subsi-  
8 dies for cost-effective weatherization. The department shall make the information required in this  
9 subsection readily available to program participants.

10 (6) The department may enter into an agreement with a local government or a regional author-  
11 ity in order to implement the program established under subsection (5) of this section.

12 **SECTION 4.** ORS 468A.467 is amended to read:

13 468A.467. A person may not cause or allow any of the following materials to be burned in a solid  
14 fuel burning device, a masonry heater, a pellet stove, a trash burner or any device described in ORS  
15 468A.485 [(4)(b)] **(6)(b)**:

16 (1) Garbage;

17 (2) Treated wood;

18 (3) Plastic or plastic products;

19 (4) Rubber or rubber products;

20 (5) Animal carcasses;

21 (6) Products that contain asphalt;

22 (7) Waste petroleum products;

23 (8) Paint;

24 (9) Chemicals;

25 (10) Paper or paper products, except for paper used to kindle a fire; or

26 (11) Any other materials described in rules adopted by the commission.

27 **SECTION 5.** ORS 468A.505 is amended to read:

28 468A.505. (1) In connection with the sale of a residential structure, all used solid fuel burning  
29 devices, other than cookstoves, in the residential structure or on the real property sold with the  
30 residential structure, must be removed and destroyed unless the solid fuel burning devices were  
31 certified for sale as new:

32 (a) By the United States Environmental Protection Agency pursuant to 40 C.F.R. part 60, sub-  
33 part AAA; or

34 (b) By the Department of Environmental Quality pursuant to ORS 468A.465.

35 (2) Notwithstanding subsection (1) of this section, if pursuant to ORS 468A.465 the Environ-  
36 mental Quality Commission adopts more stringent standards than those described in subsection (1)  
37 of this section for the certification of new solid fuel burning devices, the commission by rule may  
38 require the removal and destruction of some or all used solid fuel burning devices certified for sale  
39 as new under less stringent standards if:

40 (a) The used solid fuel burning devices were manufactured at least 15 years prior to the date  
41 on which the commission adopts more stringent standards; or

42 (b) The used solid fuel burning devices are located in a nonattainment area in this state that  
43 does not attain compliance with standards for particulate matter established by the commission  
44 pursuant to ORS 468A.025.

45 (3) This section does not apply to:

1 (a) Masonry heaters;

2 (b) Masonry fireplaces described in ORS 468A.485 [(4)(b)(A)] **(6)(b)(A)**; and

3 (c) Central, wood-fired furnaces described in ORS 468A.485 [(4)(b)(E)] **(6)(b)(E)**.

4 (4) The removal and destruction of a used solid fuel burning device under this section is the  
 5 responsibility of the seller of the residential structure, unless the seller and buyer agree in writing  
 6 that it is the buyer's responsibility. If the seller retains responsibility, the seller shall remove and  
 7 destroy the device prior to the closing date of the sale of the residential structure. If the buyer ac-  
 8 cepts responsibility, the buyer shall remove and destroy the device within 30 days after the closing  
 9 date of the sale of the residential structure.

10 (5) The person responsible for removal and destruction of a used solid fuel burning device under  
 11 this section shall provide to the department written confirmation of the removal and destruction,  
 12 pursuant to rules adopted by the commission.

13 (6) The failure of a seller or buyer of a residential structure to comply with this section does  
 14 not invalidate an instrument of conveyance executed in the sale.

15 **SECTION 6.** ORS 468A.515 is amended to read:

16 468A.515. (1) If a local government or regional authority has not adopted or is not adequately  
 17 implementing a curtailment program in any area of the state where such a program is required un-  
 18 der the Clean Air Act, the Environmental Quality Commission may adopt by rule, and the Depart-  
 19 ment of Environmental Quality may operate and enforce, a program to curtail residential solid fuel  
 20 heating during periods of air stagnation as described in subsection (2) of this section. The depart-  
 21 ment shall suspend operation and enforcement of a program adopted under this subsection upon a  
 22 determination by the department that the local government or regional authority has adopted and  
 23 is adequately implementing the required curtailment program.

24 (2) Any programs adopted by the commission pursuant to subsection (1) of this section to curtail  
 25 residential solid fuel heating during periods of air stagnation shall provide for two stages of  
 26 curtailment based on the severity of projected air quality conditions. Except as provided in sub-  
 27 section (4) of this section, the programs shall apply to all heating by means of solid fuel, including  
 28 but not limited to solid fuel burning devices, masonry heaters, pellet stoves, trash burners and all  
 29 devices described in ORS 468A.485 [(4)(b)] **(6)(b)**. The programs shall provide that use of a solid fuel  
 30 burning device, masonry fireplace or other solid fuel burning device identified in rules adopted by  
 31 the commission be curtailed only at the more severe stage of projected air quality if the solid fuel  
 32 burning device, masonry fireplace or other solid fuel burning device identified in rules adopted by  
 33 the commission was certified for sale as new:

34 (a) By the United States Environmental Protection Agency pursuant to 40 C.F.R. part 60, sub-  
 35 part AAA; or

36 (b) By the department pursuant to ORS 468A.465.

37 (3) Notwithstanding subsection (2) of this section, if pursuant to ORS 468A.465 the commission  
 38 adopts more stringent standards than those described in subsection (2) of this section for the certi-  
 39 fication of new solid fuel burning devices, the commission by rule may require curtailment during  
 40 the less severe stage of projected air quality of some or all solid fuel burning devices certified for  
 41 sale as new under less stringent standards if:

42 (a) The solid fuel burning devices were manufactured at least 15 years prior to the date on  
 43 which the commission adopts more stringent standards; or

44 (b) The solid fuel burning devices are located in a nonattainment area in this state that does  
 45 not attain compliance with standards for particulate matter established by the commission pursuant

1 to ORS 468A.025.

2 (4) Programs adopted by the commission to curtail residential solid fuel heating during periods  
3 of air stagnation do not apply to:

4 (a) A person who is classified at less than or equal to 125 percent of poverty level pursuant to  
5 guidelines established by the commission taking into account federal poverty guidelines;

6 (b) A person whose residence is equipped solely with a solid fuel burning device that meets any  
7 additional requirements as described in rules adopted by the commission; and

8 (c) Pellet stoves, unless the pellet stove is located in a nonattainment area in this state that  
9 does not attain compliance with standards for particulate matter established by the commission  
10 pursuant to ORS 468A.025.

11 **SECTION 7. In addition to and not in lieu of any other appropriation, there is appropri-**  
12 **ated to the Department of Environmental Quality, for the biennium beginning July 1, 2017,**  
13 **out of the General Fund, the amount of \$\_\_\_\_\_ to be deposited in the Residential Solid Fuel**  
14 **Heating Air Quality Improvement Fund for the purpose of awarding grants under the grant**  
15 **program adopted under section 2 of this 2017 Act.**

16 **SECTION 8. This 2017 Act being necessary for the immediate preservation of the public**  
17 **peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect**  
18 **on its passage.**

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