

Requested by Representative SMITH DB

**PROPOSED AMENDMENTS TO
HOUSE BILL 2072**

1 In line 2 of the printed bill, after the semicolon delete the rest of the line
2 and insert “creating new provisions; amending ORS 315.141 and 315.144 and
3 section 6, chapter 739, Oregon Laws 2007; and prescribing an effective
4 date.”.

5 After line 13, insert:

6 **“SECTION 2.** ORS 315.141 is amended to read:

7 “315.141. (1) As used in this section:

8 “(a) ‘Agricultural producer’ means a person that produces biomass in
9 Oregon that is used, in Oregon, as biofuel or to produce biofuel.

10 “(b) ‘Biofuel’ means liquid, gaseous or solid fuels, derived from biomass,
11 that have been converted into a processed fuel ready for use as energy by a
12 biofuel producer’s customers or for direct biomass energy use at the biofuel
13 producer’s site.

14 “(c) ‘Biofuel producer’ means a person that through activities in Oregon:

15 “(A) Alters the physical makeup of biomass to convert it into biofuel;

16 “(B) Changes one biofuel into another type of biofuel; or

17 “(C) Uses biomass in Oregon to produce energy.

18 “(d) ‘Biomass’ means organic matter that is available on a renewable or
19 recurring basis and that is derived from:

20 “(A) Forest or rangeland woody debris from harvesting or thinning con-
21 ducted to improve forest or rangeland ecological health and reduce unchar-

1 acteristic stand replacing wildfire risk;

2 “(B) Wood material from hardwood timber described in ORS 321.267 (3);

3 “(C) Agricultural residues;

4 “(D) Offal and tallow from animal rendering;

5 “(E) Food wastes collected as provided under ORS chapter 459 or 459A;

6 “(F) Wood debris collected as provided under ORS chapter 459 or 459A;

7 “(G) Wastewater solids; or

8 “(H) Crops grown solely to be used for energy.

9 “(e) ‘Biomass’ does not mean wood that has been treated with creosote,
10 pentachlorophenol, inorganic arsenic or other inorganic chemical compounds
11 or waste, other than matter described in paragraph (d) of this subsection.

12 “(f) ‘Biomass collector’ means a person that collects biomass in Oregon
13 to be used, in Oregon, as biofuel or to produce biofuel.

14 “(g) ‘Canola’ means plants of the genus Brassica:

15 “(A) In which seeds having a high oil content are the primary econom-
16 ically valuable product; and

17 “(B) That have a high erucic acid content suitable for industrial uses or
18 a low erucic acid content suitable for edible oils.

19 “(h) ‘Oilseed processor’ means a person that receives agricultural oilseeds
20 and separates them into meal and oil by mechanical or chemical means.

21 “(i) ‘Willamette Valley’ means Clackamas, Linn, Marion, Multnomah,
22 Polk, Washington and Yamhill Counties and the portion of Benton and Lane
23 Counties lying east of the summit of the Coast Range.

24 “(2)(a) The Director of the State Department of Energy may adopt rules
25 to define criteria, only as the criteria apply to organic biomass **other than**
26 **woody biomass**, to determine additional characteristics of biomass for pur-
27 poses of this section.

28 “(b) **The State Forester may adopt rules to define criteria, only as**
29 **the criteria apply to woody biomass, to determine additional charac-**
30 **teristics of biomass for purposes of this section.**

1 “(3)(a) An agricultural producer or biomass collector shall be allowed a
2 credit against the taxes that would otherwise be due under ORS chapter 316
3 or, if the taxpayer is a corporation, under ORS chapter 317 or 318 for:

4 “(A) The production of biomass in Oregon that is used, in Oregon, as
5 biofuel or to produce biofuel; or

6 “(B) The collection of biomass in Oregon that is used, in Oregon, as
7 biofuel or to produce biofuel.

8 “(b) A credit under this section may be claimed in the tax year in which
9 the credit is certified under subsection (5) **or (6)** of this section.

10 “(c) A taxpayer may be allowed a credit under this section for more than
11 one of the roles defined in subsection (1) of this section, but a biofuel pro-
12 ducer that is not also an agricultural producer or a biomass collector may
13 not claim a credit under this section.

14 “(d) A credit under this section may be claimed only once for each unit
15 of biomass.

16 “(e) Notwithstanding paragraph (a) of this subsection, a tax credit:

17 “(A) Is not allowed for canola grown, collected or produced in the
18 Willamette Valley; and

19 “(B) Is not allowed for grain corn, but a tax credit shall be allowed for
20 other corn material.

21 “(4) The amount of the credit shall equal the amount certified under
22 subsection (5) **or (6)** of this section, **but may not exceed the tax liability**
23 **of the taxpayer.**

24 “[5)(a) *The State Department of Energy may establish by rule procedures*
25 *and criteria for determining the amount of the tax credit to be certified under*
26 *this section, consistent with ORS 469B.403. The department shall provide*
27 *written certification to taxpayers that are eligible to claim the credit under this*
28 *section.*]

29 “[b) *The State Department of Energy may charge and collect a fee from*
30 *taxpayers for certification of credits under this section. The fee may not exceed*

1 *the cost to the department of determining the amount of certified cost.]*

2 *“(c) The State Department of Energy shall provide to the Department of*
3 *Revenue a list, by tax year, of taxpayers for which a credit is certified under*
4 *this section, upon request of the Department of Revenue.]*

5 *“(6) The amount of the credit claimed under this section for any tax year*
6 *may not exceed the tax liability of the taxpayer.]*

7 **“(5) The State Department of Energy:**

8 **“(a) May establish by rule procedures and criteria for determining**
9 **the amount of the tax credit to be certified under this section, other**
10 **than credits for woody biomass, consistent with ORS 469B.403.**

11 **“(b) Shall provide written certification to taxpayers that are eligible**
12 **to claim the credit under this section.**

13 **“(c) May charge and collect a fee from taxpayers for certification**
14 **of credits under this section, not to exceed the cost to the department**
15 **of determining the amount of certified cost.**

16 **“(d) Shall provide to the Department of Revenue a list, by tax year,**
17 **of taxpayers for which a credit is certified under this section, upon**
18 **request of the Department of Revenue.**

19 **“(6) The State Forestry Department:**

20 **“(a) May establish by rule procedures and criteria for determining**
21 **the amount of the tax credit to be certified under this section, for**
22 **credits allowed for woody biomass, consistent with ORS 469B.403.**

23 **“(b) Shall provide written certification to taxpayers that are eligible**
24 **to claim the credit under this section.**

25 **“(c) May charge and collect a fee from taxpayers for certification**
26 **of credits under this section, not to exceed the cost to the department**
27 **of determining the amount of certified cost.**

28 **“(d) Shall provide to the Department of Revenue a list, by tax year,**
29 **of taxpayers for which a credit is certified under this section, upon**
30 **request of the Department of Revenue.**

1 **“(7) The total amount certified for tax credits for the collection of**
2 **woody biomass may not exceed \$600,000 for all taxpayers for the tax**
3 **year in which the certification is made.**

4 ~~“(7)~~ (8) Each agricultural producer or biomass collector shall maintain
5 the written documentation of the amount certified for tax credit under this
6 section in its records for a period of at least five years after the tax year in
7 which the credit is claimed and provide the written documentation to the
8 Department of Revenue upon request.

9 ~~“(8)~~ (9) The credit shall be claimed on a form prescribed by the De-
10 partment of Revenue that contains the information required by the depart-
11 ment.

12 ~~“(9)~~ (10) Any tax credit otherwise allowable under this section that is
13 not used by the taxpayer in a particular tax year may be carried forward and
14 offset against the taxpayer’s tax liability for the next succeeding tax year.
15 Any credit remaining unused in the next succeeding tax year may be carried
16 forward and used in the second succeeding tax year, and likewise any credit
17 not used in that second succeeding tax year may be carried forward and used
18 in the third succeeding tax year, and any credit not used in that third suc-
19 ceeding tax year may be carried forward and used in the fourth succeeding
20 tax year, but may not be carried forward for any tax year thereafter.

21 ~~“(10)~~ (11) In the case of a credit allowed under this section:

22 “(a) A nonresident shall be allowed the credit under this section in the
23 proportion provided in ORS 316.117.

24 “(b) If a change in the status of the taxpayer from resident to nonresident
25 or from nonresident to resident occurs, the credit allowed by this section
26 shall be determined in a manner consistent with ORS 316.117.

27 “(c) If a change in the taxable year of the taxpayer occurs as described
28 in ORS 314.085, or if the department terminates the taxpayer’s taxable year
29 under ORS 314.440, the credit allowed under this section shall be prorated
30 or computed in a manner consistent with ORS 314.085.

1 **“SECTION 3.** ORS 315.144 is amended to read:

2 “315.144. (1) A person that has obtained a tax credit under ORS 315.141
3 may transfer the credit to a taxpayer subject to tax under ORS chapter 316,
4 317 or 318.

5 “(2) A tax credit allowed under ORS 315.141 may be transferred on or
6 before the date on which the return is due for the tax year in which the
7 credit may first be claimed. After that date, no portion of a credit allowed
8 under ORS 315.141 may be transferred.

9 “(3) To transfer the tax credit, the taxpayer earning the credit and the
10 taxpayer that will claim the credit shall, on or before the date prescribed in
11 subsection (2) of this section, jointly file a notice of tax credit transfer with
12 the Department of Revenue. The notice shall be given on a form prescribed
13 by the department that contains all of the following:

14 “(a) The name and address of the transferor and transferee;

15 “(b) The amount of the tax credit that is being transferred;

16 “(c) The amount of the tax credit that is being retained by the transferor;
17 and

18 “(d) Any other information required by the department.

19 “(4) The State Department of Energy may establish by rule a minimum
20 discounted value of a tax credit, **other than a credit allowed for woody**
21 **biomass**, under this section.

22 **“(5) The State Forestry Department may establish by rule a mini-**
23 **imum discounted value of a tax credit allowed under this section for**
24 **woody biomass.**

25 “~~[(5)]~~ **(6)** The Department of Revenue, in consultation with the State De-
26 partment of Energy, **or the State Forestry Department, in the case of a**
27 **credit allowed for woody biomass**, may by rule establish procedures for
28 the transfer of tax credits provided by this section.

29 **“SECTION 4. The amendments to ORS 315.141 and 315.144 by**
30 **sections 2 and 3 of this 2017 Act apply to tax years beginning on or**

1 after January 1, 2018, and to applications for certification under ORS
2 315.141 filed after January 1, 2018.

3 **SECTION 5. This 2017 Act takes effect on the 91st day after the**
4 **date on which the 2017 regular session of the Seventy-ninth Legislative**
5 **Assembly adjourns sine die.”.**

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