

House Bill 2007

Sponsored by Representatives KOTEK, POWER, NOSSE, Senators DEMBROW, FREDERICK, TAYLOR; Representatives HERNANDEZ, KENY-GUYER, NERON, PRUSAK, SALINAS, SANCHEZ, SCHOUTEN, SMITH WARNER

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**.

Directs Environmental Quality Commission to adopt by rule diesel engine emission standards for medium-duty trucks and heavy-duty trucks. Requires commission to phase in implementation of standards.

Requires owner or operator of truck that enters Oregon for purpose of operating in Oregon to maintain evidence demonstrating that engine of truck meets federal emission standards at time of manufacture. Directs commission to adopt by rule inspection and emission control label program for determining whether trucks meet federal emission standards.

Extends authorized uses of moneys received by state pursuant to Volkswagen Environmental Mitigation Trust Agreement and deposited in Clean Diesel Engine Fund.

Repeals state preemption of local regulating of idling by primary engines in commercial vehicles.

Beginning January 1, 2020, requires certain public improvement contracts to require use of motor vehicles and equipment with 2010 model year or newer diesel engines in performance of contract.

Establishes Supporting Businesses in Reducing Diesel Emissions Task Force. Directs task force to consider public funding strategies for supporting businesses in reducing emissions from diesel engines used in conducting business activities.

Becomes operative January 1, 2020.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to engine emissions; creating new provisions; amending ORS 468A.795, 468A.803 and
3 468A.805; repealing ORS 825.615; and declaring an emergency.

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

DIESEL ENGINE EMISSION STANDARDS; INSPECTION PROGRAM

7
8 **SECTION 1.** ORS 468A.795 is amended to read:

9 468A.795. As used in ORS 468A.795 to 468A.807:

10 (1) "Alternative fuel" means biofuels, biogas, natural gas, liquefied petroleum gas, hydrogen and
11 electricity.

12 (2) "Best available exhaust control technology" means the most effective exhaust controls to
13 reduce diesel particulate that rely on passively regenerated diesel particulate control technology
14 supported in a vehicle's normal duty cycle.

15 [(3) "*Combined weight*" has the meaning given that term in ORS 825.005.]

16 [(4)] (3) "Cost-effectiveness threshold" means the cost, in dollars, per ton of diesel particulate
17 matter reduced, as established by rule of the Environmental Quality Commission.

18 [(5)] (4) "Diesel engine" means a compression ignition engine.

19 [(6)] (5) "Environmental Mitigation Trust Agreement" means the **fully executed** Environmental
20 Mitigation Trust Agreement **for State Beneficiaries effective October 2, 2017, and issued pur-**
21 **suant to Paragraph 17 of** [required by] the Volkswagen "Clean Diesel" Marketing, Sales Practices

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 and Products Liability Litigation partial consent decree dated October 25, 2016.

2 [(7)] (6) “Equivalent equipment” means a piece of equipment that performs the same function
3 and has the equivalent horsepower to a piece of equipment subject to a replacement.

4 [(8)] (7) “Equivalent motor vehicle” means a motor vehicle that performs the same function and
5 is in the same weight class as a motor vehicle subject to a replacement.

6 (8) “**Gross vehicle weight rating**” means the value specified by the manufacturer as the
7 **maximum loaded weight of a single or a combination vehicle.**

8 (9) “Heavy-duty truck” means a motor vehicle or combination of vehicles operated as a unit that
9 has a [*combined weight*] **gross vehicle weight rating** that is greater than 26,000 pounds.

10 (10) “Incremental cost” means the cost of a qualifying repower or retrofit less a baseline cost
11 that would otherwise be incurred in the normal course of business.

12 (11) “Medium-duty truck” means a motor vehicle or combination of vehicles operated as a unit
13 that has a [*combined weight*] **gross vehicle weight rating** that is greater than 14,000 pounds but
14 less than or equal to 26,000 pounds.

15 (12) “Motor vehicle” has the meaning given that term in ORS 825.005.

16 (13) “Nonroad diesel engine” means a diesel engine of 25 horsepower or more that is not de-
17 signed primarily to propel a motor vehicle on public highways.

18 [(14) “Oregon diesel engine” means an engine at least 50 percent of the use of which, as measured
19 by miles driven or hours operated, will occur in Oregon for the three years following the repowering
20 or retrofitting of the engine.]

21 [(15)] (14) “Oregon diesel truck engine” means a diesel engine in a truck at least 50 percent of
22 the use of which, as measured by miles driven or hours operated, has occurred in Oregon for the
23 two years preceding the scrapping of the engine.

24 [(16)] (15) “Public highway” has the meaning given that term in ORS 825.005.

25 [(17)(a)] (16)(a) “Replacement” means:

26 (A) To scrap a motor vehicle powered by a diesel engine and replace the motor vehicle with an
27 equivalent motor vehicle; or

28 (B) To scrap a piece of equipment powered by a nonroad diesel engine and replace the equip-
29 ment with equivalent equipment.

30 (b) “Replacement” does not mean ordinary maintenance, repair or replacement of a diesel en-
31 gine.

32 [(18)] (17) “Repower” means to scrap an old diesel engine and substitute it with a new engine,
33 a used engine or a remanufactured engine, or with electric motors, drives or fuel cells, with a min-
34 imum useful life of seven years.

35 [(19)] (18) “Retrofit” means to equip a diesel engine with new emissions-reducing parts or tech-
36 nology after the manufacture of the original engine. A retrofit must use the greatest degree of
37 emissions reduction available for the particular application of the equipment retrofitted that meets
38 the cost-effectiveness threshold.

39 [(20)] (19) “Scrap” means to destroy, render inoperable and recycle.

40 [(21)] (20) “Truck” means a motor vehicle or combination of vehicles operated as a unit that has
41 a [*combined weight*] **gross vehicle weight rating** that is greater than 14,000 pounds.

42 **SECTION 2. Sections 3 and 4 of this 2019 Act are added to and made a part of ORS**
43 **468A.795 to 468A.807.**

44 **SECTION 3. (1) The Environmental Quality Commission by rule shall establish diesel**
45 **engine emission standards for medium-duty trucks and heavy-duty trucks.**

1 (2) The standards adopted by the commission under this section must include a schedule
2 to phase in implementation of a requirement that, by January 1, 2029, all medium-duty
3 trucks and heavy-duty trucks registered in Oregon must have a 2010 model year or newer
4 engine.

5 (3) Rules adopted under this section must allow for owners and operators of medium-duty
6 trucks and heavy-duty trucks to meet the diesel engine emission standards through alter-
7 native compliance options that may include, but need not be limited to:

8 (a) A fleet averaging option.

9 (b) Options that provide flexibility for small fleets.

10 (c) Compliance extensions for individual trucks that meet eligibility requirements adopted
11 by the commission by rule.

12 (d) Compliance through retrofitting with exhaust controls that reduce diesel particulate
13 emissions by at least 85 percent when compared with the baseline emissions for the relevant
14 engine year and application.

15 (4) Rules adopted under this section must include standards restricting the addition to
16 fleets, after dates to be established by rule, of medium-duty trucks and heavy-duty trucks
17 that are powered by diesel engines of certain model years.

18 (5) Before adopting rules under this section, the commission shall consider regulations
19 adopted by the State of California for reducing diesel engine emissions from in-use medium-
20 duty trucks and heavy-duty trucks.

21 (6) The following classes of vehicles are exempt from rules adopted under this section:

22 (a) Motor vehicles registered as farm vehicles under the provisions of ORS 805.300.

23 (b) Farm tractors, as defined in ORS 801.265.

24 (c) Implements of husbandry, as defined in ORS 801.310.

25 (d) Motor vehicles used exclusively as training vehicles, as determined by the commission
26 by rule.

27 (e) Any other medium-duty trucks or heavy-duty trucks exempted from the diesel engine
28 emission standards by the commission by rule.

29 **SECTION 4.** (1) To the extent permissible under federal law, the owner or operator of a
30 truck that enters the State of Oregon for the purpose of operating in this state shall main-
31 tain, and provide upon demand to an enforcement authority, evidence demonstrating that the
32 engine of the truck meets the federal emission standards applicable to commercial heavy-
33 duty engines for that engine's model year at the time the engine was manufactured.

34 (2) The Environmental Quality Commission shall adopt by rule a program for inspecting
35 trucks to determine whether the engine of a truck subject to the requirements of subsection
36 (1) of this section meets the federal emission standards applicable to commercial heavy-duty
37 engines for that engine's model year at the time the engine was manufactured. The program
38 shall include provisions for issuing and requiring an owner or operator of a truck to display
39 an emission control label.

40 (3) Before adopting rules under this section, the commission shall consider regulations
41 adopted by the State of California for establishing inspection protocol for determining
42 whether the engine of a heavy-duty vehicle meets the federal emission standards applicable
43 to commercial heavy-duty engines for that engine's model year at the time the engine was
44 manufactured.

45

1 **USES OF ENVIRONMENTAL MITIGATION TRUST AGREEMENT MONEYS**

2
3 **SECTION 5.** ORS 468A.805 is amended to read:

4 468A.805. (1) Subject to and consistent with ORS 468A.803 (8) and with the terms of the Envi-
5 ronmental Mitigation Trust Agreement, any moneys received by the State of Oregon pursuant to the
6 agreement that are deposited in the Clean Diesel Engine Fund under ORS 468A.801 must *[be used*
7 *by the Department of Environmental Quality to award grants for the purpose of reducing nitrogen*
8 *oxides emissions from diesel engines.]*

9 *[(2)(a) To the extent authorized by the agreement, the department shall allocate moneys awarded*
10 *pursuant to subsection (1) of this section first to]* **be expended by the Department of Environ-**
11 **mental Quality as follows:**

12 **(a) The department shall** award grants to owners and operators of school buses to reduce
13 emissions from at least 450 school buses powered by diesel engines operating in this state.

14 **(b) Moneys not expended under paragraph (a) of this subsection must be expended, to the**
15 **extent authorized by the Environmental Mitigation Trust Agreement, to award grants to**
16 **owners and operators of motor vehicles powered by diesel engines and equipment powered**
17 **by nonroad diesel engines for:**

18 **(A) Qualifying replacements of motor vehicles and nonroad diesel engines powered by**
19 **2009 model year or older diesel engines; and**

20 **(B) Qualifying retrofits and repowers of 2009 model year or older diesel engines.**

21 *[(b)]* **(2)(a)** In awarding grants under *[this subsection]* **subsection (1)(a) of this section**, the
22 department shall begin by awarding grants to owners and operators of school buses powered by
23 diesel engines that are of the median model year of school buses powered by diesel engines operat-
24 ing in this state, and shall proceed to award grants for school buses powered by diesel engines
25 through the adjoining model years until the requirements of *[paragraph (a) of this subsection]* **sub-**
26 **section (1)(a) of this section** are met. A grant may be awarded under *[this subsection]* **subsection**
27 **(1)(a) of this section** for any school bus powered by a diesel engine within the control of an owner
28 or operator that meets the following conditions:

29 **(A)** The school bus has at least three years of remaining useful life;

30 **(B)** Use of the school bus has occurred in Oregon during the year preceding the date of the
31 grant; and

32 **(C)** For the three years following receipt of a grant award, use of the school bus to which the
33 owner or operator applies the grant will occur in Oregon.

34 *[(c)]* **(b)** The grant amount per school bus awarded under *[this paragraph]* **subsection (1)(a) of**
35 **this section** shall be for:

36 **(A)** \$50,000 or 30 percent of the cost to purchase a school bus that meets minimum standards
37 adopted by the State Board of Education under ORS 820.100 for the applicable class or type of
38 school bus, whichever is less; or

39 **(B)** Up to 100 percent of the cost to retrofit a school bus with emissions-reducing parts or
40 technology that results in a reduction of diesel particulate matter emissions by at least 85 percent
41 when compared with the baseline emissions for the relevant engine year and application.

42 *[(3) Except for awarding grants pursuant to subsection (2) of this section, the department may not*
43 *award grants from the moneys described under subsection (1) of this section without prior approval*
44 *by the Legislative Assembly by law.]*

45 **(3) In awarding grants pursuant to subsection (1)(b) of this section, the department shall**

1 give preferences for projects that will:

2 (a) Benefit sensitive populations or areas with elevated concentrations of diesel
3 particulate matter;

4 (b) Be carried out by a grant applicant that is a disadvantaged business enterprise, as
5 defined in ORS 200.005;

6 (c) Be designed and performed in a manner that reflects engagement with and the sup-
7 port of the community where the project is located;

8 (d) Involve the replacement, repower or retrofit of one or more motor vehicles or pieces
9 of equipment that have at least three years of remaining useful life at the time that the
10 grant agreement is executed;

11 (e) Support the utilization of fuels for which regulated parties may generate credits un-
12 der the clean fuels program adopted by rule by the Environmental Quality Commission under
13 ORS 468A.266 (1)(b);

14 (f) Involve small fleets;

15 (g) Maximize the cost effectiveness of emissions reductions in Oregon; or

16 (h) Meet the criteria of any other preferences that the commission may establish by rule,
17 if the department determines that the additional preferences are necessary to ensure that
18 grant awards result in the reduction of nitrogen oxides emissions from diesel engines.

19 (4) The commission may adopt rules necessary to implement the provisions of this sec-
20 tion.

21
22 **REPEAL OF STATE PREEMPTION OF LOCAL REGULATION**
23 **OF IDLING BY PRIMARY ENGINES IN COMMERCIAL VEHICLES**

24
25 **SECTION 6.** ORS 825.615 is repealed.

26
27 **CLEAN DIESEL IN PUBLIC CONTRACTS**

28
29 **SECTION 7.** Section 8 of this 2019 Act is added to and made a part of the Public Con-
30 tracting Code.

31 **SECTION 8.** (1) As used in this section, “diesel engine” and “motor vehicle” have the
32 meaning given those terms in ORS 468A.795.

33 (2) Except as provided in subsection (4) of this section, a public improvement contract
34 must require at least 80 percent of the total fleet of motor vehicles that are motor vehicles
35 powered by diesel engines and equipment powered by nonroad diesel engines used in the
36 course of performing the contract to be:

37 (a) Motor vehicles powered by model year 2010 or newer diesel engines; and

38 (b) Equipment powered by nonroad diesel engines, whether or not capable of being pow-
39 ered by alternative fuel, that meet or exceed United States Environmental Protection Agency
40 Tier 4 exhaust emission standards for nonroad compression ignition engines.

41 (3) Subsection (2) of this section applies only to a public improvement contract for:

42 (a) A public improvement for which the contracting agency is a state contracting agency;
43 or

44 (b) A public improvement with a value of \$20 million or more and for which the issuance
45 of general obligation bonds for the cost of the public improvement is a source of funding.

1 (4)(a) The Environmental Quality Commission may adopt by rule minimum standards for
2 contract specifications relating to the use of diesel engines in the course of performing a
3 public improvement contract by a state contracting agency. In adopting rules under this
4 subsection, the commission shall take into consideration methods for assisting contractors
5 certified as disadvantaged business enterprises, minority-owned businesses, women-owned
6 businesses or businesses owned by service-disabled veterans under ORS 200.055 in complying
7 with the minimum standards for contract specifications.

8 (b) As an alternative to meeting the requirements of subsection (2) of this section, a
9 public improvement contract subject to subsection (2) of this section may include contract
10 specifications that meet the minimum standards adopted by the commission by rule under
11 this subsection.

12
13 **SUPPORTING BUSINESSES IN REDUCING DIESEL EMISSIONS TASK FORCE**

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15 **SECTION 9.** (1) The Supporting Businesses in Reducing Diesel Emissions Task Force is
16 established.

17 (2) The task force consists of 10 members appointed as follows:

18 (a) The President of the Senate shall appoint one member from the majority party of the
19 Senate and one member from the minority party of the Senate.

20 (b) The Speaker of the House of Representatives shall appoint one member from the
21 majority party of the House of Representatives and one member from the minority party of
22 the House of Representatives.

23 (c) The President and the Speaker shall coordinate to jointly appoint six members as
24 follows:

25 (A) One member of the public who is an elected official of a regional government entity;

26 (B) Two members of the public who represent organizations concerned with the impacts
27 of diesel emissions on health and communities;

28 (C) One member of the public who represents the trucking or freight industry;

29 (D) One member of the public who represents a business that operates equipment that
30 is likely to be powered by diesel engines; and

31 (E) One member of the public who represents contractors or businesses that retain the
32 services of subcontractors that operate motor vehicles or equipment powered by diesel en-
33 gines.

34 (3) The task force shall consider public funding strategies for supporting businesses in
35 reducing emissions from diesel engines used in the course of conducting business activities.
36 The task force shall evaluate and develop recommendations related to funding strategies that
37 shall include, but need not be limited to:

38 (a) Taxes;

39 (b) Fees;

40 (c) Contract requirements or funding set-asides; and

41 (d) Strategies employed by other states to accrue funds for diesel emission reduction
42 programs.

43 (4) The task force shall also consider and provide recommendations on the development
44 of a state program for an owner or operator of equipment powered by a nonroad diesel en-
45 gine operated in Oregon to voluntarily demonstrate that the nonroad diesel engine powering

1 the equipment meets or exceeds United States Environmental Protection Agency Tier 4 ex-
 2 haust emission standards for nonroad compression ignition engines, and to receive and dis-
 3 play an emission control label on the equipment. Recommendations developed under this
 4 subsection may include recommendations for administration of the voluntary program and
 5 appropriate fees.

6 (5) A majority of the voting members of the task force constitutes a quorum for the
 7 transaction of business.

8 (6) Official action by the task force requires the approval of a majority of the voting
 9 members of the task force, except that in the event of a tie vote, the vote of the chairperson
 10 shall decide the action.

11 (7) The task force shall elect one of its members to serve as chairperson.

12 (8) If there is a vacancy for any cause, the appointing authority shall make an appoint-
 13 ment to become immediately effective.

14 (9) The task force shall meet at times and places specified by the call of the chairperson
 15 or of a majority of the voting members of the task force.

16 (10) The task force may adopt rules necessary for the operation of the task force.

17 (11) The task force shall submit a report in the manner provided by ORS 192.245, and
 18 may include recommendations for legislation, to the interim committees of the Legislative
 19 Assembly related to environment and natural resources no later than September 15, 2020.

20 (12) The Legislative Policy and Research Director shall provide staff support to the task
 21 force.

22 (13) Members of the Legislative Assembly appointed to the task force are nonvoting
 23 members of the task force and may act in an advisory capacity only.

24 (14) Members of the task force who are not members of the Legislative Assembly are not
 25 entitled to compensation or reimbursement for expenses and serve as volunteers on the task
 26 force.

27 (15) All agencies of state government, as defined in ORS 174.111, are directed to assist
 28 the task force in the performance of the duties of the task force and, to the extent permitted
 29 by laws relating to confidentiality, to furnish information and advice the members of the task
 30 force consider necessary to perform their duties.

31 **SECTION 10.** Section 9 of this 2019 Act is repealed on December 31, 2020.

32
 33 **MISCELLANEOUS**
 34

35 **SECTION 11.** ORS 468A.803 is amended to read:

36 468A.803. (1) The Department of Environmental Quality shall use the moneys in the Clean Diesel
 37 Engine Fund to award:

38 (a) Grants and loans to the owners and operators of motor vehicles powered by diesel engines,
 39 and equipment powered by nonroad diesel engines, for up to 25 percent of the certified costs of
 40 qualifying replacements as described in ORS 468A.797 and 468A.799;

41 (b) Grants and loans to the owners and operators of diesel engines for up to 100 percent of the
 42 certified costs of qualifying retrofits as described in ORS 468A.797 and 468A.799;

43 (c) Grants and loans to the owners and operators of nonroad diesel engines for up to 25 percent
 44 of the certified costs of qualifying repowers as described in ORS 468A.797 and 468A.799; and

45 (d) Grants to the owners of Oregon diesel truck engines to scrap those engines.

1 (2) The Environmental Quality Commission by rule may set grant or loan award rates at a per-
2 centage that is greater than a percentage allowed under subsection (1) of this section, provided that
3 the grant or loan assistance will not exceed the cost-effectiveness threshold, if the higher percentage
4 award rate would:

5 (a) Benefit sensitive populations or areas with elevated concentrations of diesel particulate
6 matter; or

7 (b) Otherwise increase participation by those categories of owners or operators.

8 (3) In determining the amount of a grant or loan under this section, the department must reduce
9 the incremental cost of a qualifying replacement, repower or retrofit by the value of any existing
10 financial incentive that directly reduces the cost of the qualifying replacement, repower or retrofit,
11 including tax credits, other grants or loans, or any other public financial assistance.

12 (4) The department may certify third parties to perform qualifying replacements, repowers and
13 retrofits and may contract with third parties to perform such services for the certified costs of
14 qualifying replacements, repowers and retrofits. The department may also contract with institutions
15 of higher education or other public bodies as defined by ORS 174.109 to train and certify third par-
16 ties to perform qualifying replacements, repowers and retrofits.

17 (5) The department may not award a grant or loan for a replacement, repower or retrofit under
18 subsection (1) of this section unless the grant or loan applicant demonstrates to the department's
19 satisfaction that the resulting equivalent motor vehicle, equivalent equipment, repowered nonroad
20 diesel engine or retrofitted diesel engine will undergo at least 50 percent of its use in Oregon, as
21 measured by miles driven or hours operated, for the three years following the replacement, repower
22 or retrofit.

23 (6) The department may not award a grant to scrap an Oregon diesel truck engine under sub-
24 section (1)(d) of this section unless the engine was manufactured prior to 1994 and the engine is in
25 operating condition at the time of the grant application or, if repairs are needed, the owner dem-
26 onstrates to the department's satisfaction that the engine can be repaired to an operating condition
27 for less than its commercial scrap value. The commission shall adopt rules for a maximum grant
28 awarded under subsection (1)(d) of this section for an engine in a heavy-duty truck and for an engine
29 in a medium-duty truck. A grant awarded under subsection (1)(d) of this section may not be com-
30 bined with any other tax credits, grants or loans, or any other public financial assistance, to scrap
31 an Oregon diesel truck engine.

32 (7) Subject to and consistent with federal law, any moneys received from the federal government
33 that are deposited in the Clean Diesel Engine Fund under ORS 468A.801 (2)(b) must be used for in-
34 itiatives to reduce emissions from diesel engines. Subsections (1) to (6) of this section and ORS
35 468A.797 and 468A.799 do not apply to use of moneys in the fund received from the federal govern-
36 ment.

37 (8) Any moneys received by the State of Oregon pursuant to a voluntary written agreement or
38 a settlement approved in an administrative or judicial proceeding that are deposited in the Clean
39 Diesel Engine Fund must be used by the department for activities consistent with the terms and
40 conditions of the agreement or settlement. Subsections (1) to (6) of this section and ORS 468A.797
41 and 468A.799 do not apply to the use of moneys in the fund received pursuant to this subsection.

42 (9) Except as provided in subsection (8) of this section, the department may use the moneys in
43 the Clean Diesel Engine Fund to pay expenses of the department in administering the program de-
44 scribed in ORS 468A.795 to 468A.807.

45 **SECTION 12. (1) Sections 2 to 4, 7 and 8 of this 2019 Act and the amendments to statutes**

1 by sections 1, 5 and 11 of this 2019 Act become operative on January 1, 2020.

2 (2) The Environmental Quality Commission and the Department of Environmental Qual-
3 ity may take any action before the operative date specified in subsection (1) of this section
4 that is necessary for the commission and the department to exercise, on and after the op-
5 erative date specified in subsection (1) of this section, all of the duties, functions and powers
6 conferred on the commission and the department by sections 2 to 4, 7 and 8 of this 2019 Act
7 and the amendments to statutes by sections 1, 5 and 11 of this 2019 Act.

8 SECTION 13. The unit captions used in this 2019 Act are provided only for the conven-
9 ience of the reader and do not become part of the statutory law of this state or express any
10 legislative intent in the enactment of this 2019 Act.

11 SECTION 14. This 2019 Act being necessary for the immediate preservation of the public
12 peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect
13 on its passage.

14 _____