

House Bill 4141

Sponsored by Representatives EVANS, CAMPOS; Representatives ALONSO LEON, HELM, HOY, RUIZ, SANCHEZ, SCHOUTEN, WILDE, Senators DEMBROW, HANSELL, PATTERSON (Presession 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**.

Establishes timeline for restrictions on sales of petroleum diesel for use in motor vehicles. Establishes timeline for restrictions on purchase of petroleum diesel for use in motor vehicles by public bodies.

Directs State Department of Agriculture to suspend enforcement of restrictions if supply of renewable diesel is determined to be insufficient to meet anticipated demand.

Directs State Forestry Department to study feasibility of converting lignocellulosic biomass derived from invasive tree species into renewable diesel feedstocks.

A BILL FOR AN ACT

1
2 Relating to diesel fuel; creating new provisions; and amending ORS 646.957.

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

SECTION 1. As used in sections 1 to 4 of this 2022 Act:

4 (1) **“Eastern Oregon” means that portion of the State of Oregon lying east of a line be-**
5 **ginning at the intersection of the northern boundary of the state and the western boundary**
6 **of Hood River County, then continuing south along the western boundaries of the counties**
7 **of Hood River, Wasco, Jefferson, Deschutes and Klamath to the southern boundary of the**
8 **state.**

9
10 (2) **“Motor vehicle” means every self-propelled vehicle operated on the highway, except**
11 **an implement of husbandry used in agricultural operations and only incidentally operated or**
12 **moved upon the highway.**

13 (3) **“Nonretail dealer” means any person who owns, operates, controls or supervises an**
14 **establishment at which diesel fuel is dispensed through a card-activated or key-activated fuel**
15 **dispensing device to nonretail customers for use in a motor vehicle.**

16 (4)(a) **“Petroleum diesel” means fuel produced from the distillation of petroleum or its**
17 **products that is suitable for use in a compression ignition engine.**

18 (b) **“Petroleum diesel” does not include a diesel fuel blend where petroleum diesel equals**
19 **one percent or less of the mixture by volume.**

20 (5) **“Renewable diesel” means:**

21 (a) **A diesel fuel substitute, produced from nonfossil renewable resources, excluding palm**
22 **oil, that complies with ASTM D 975; or**

23 (b) **A diesel fuel blend where at least 99 percent of the mixture by volume meets the**
24 **standards described in paragraph (a) of this subsection and no more than one percent of the**
25 **mixture is petroleum diesel.**

26 (6) **“Retail dealer” means any person who owns, operates, controls or supervises an es-**
27 **tablishment at which diesel fuel is sold or offered for sale to the public for use in a motor**
28 **vehicle.**

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 (7) "Use in a motor vehicle" means receiving, into any receptacle on a motor vehicle, fuel
2 to be consumed in propelling the motor vehicle on the highways of this state.

3 (8) "Western Oregon" means that portion of the State of Oregon lying west of a line be-
4 ginning at the intersection of the northern boundary of the state and the western boundary
5 of Hood River County, then continuing south along the western boundaries of the counties
6 of Hood River, Wasco, Jefferson, Deschutes and Klamath to the southern boundary of the
7 state.

8 (9) "Wholesale dealer" means any person engaged in the sale of diesel fuel if the seller
9 knows or has reasonable cause to believe the buyer intends to resell the diesel fuel in the
10 same or an altered form to another.

11 **SECTION 2.** (1) Notwithstanding ORS 646.922, on or after the following dates, a nonretail
12 dealer may not sell or offer for sale petroleum diesel to a consumer for use in a motor ve-
13 hicle:

14 (a) January 1, 2025, from a nonretail dealer's establishment located in Clackamas,
15 Washington or Multnomah County.

16 (b) January 1, 2027, from a nonretail dealer's establishment located in western Oregon.

17 (c) January 1, 2029, from a nonretail dealer's establishment located anywhere in this
18 state.

19 (2) Notwithstanding ORS 646.922, on or after the following dates, a retail dealer may not
20 sell or offer for sale petroleum diesel to a consumer for use in a motor vehicle:

21 (a) January 1, 2026, from a retail dealer's establishment located in Clackamas,
22 Washington or Multnomah County.

23 (b) January 1, 2028, from a retail dealer's establishment located in western Oregon.

24 (c) January 1, 2029, from a retail dealer's establishment located anywhere in this state.

25 (3) Notwithstanding ORS 646.922, on or after the following dates, a wholesale dealer may
26 not sell petroleum diesel to a nonretail dealer if the wholesale dealer knows or has reason-
27 able cause to believe that the nonretail dealer intends to sell petroleum diesel to another for
28 use in a motor vehicle:

29 (a) January 1, 2025, for sales to a nonretail dealer's establishment located in Clackamas,
30 Washington or Multnomah County.

31 (b) January 1, 2027, for sales to a nonretail dealer's establishment located in western
32 Oregon.

33 (c) January 1, 2029, for sales to a nonretail dealer's establishment located anywhere in
34 this state.

35 (4) Notwithstanding ORS 646.922, on or after the following dates, a wholesale dealer may
36 not sell petroleum diesel to a retail dealer if the wholesale dealer knows or has reasonable
37 cause to believe that the retail dealer intends to sell petroleum diesel to another for use in
38 a motor vehicle:

39 (a) January 1, 2026, for sales to a retail dealer's establishment located in Clackamas,
40 Washington or Multnomah County.

41 (b) January 1, 2028, for sales to a retail dealer's establishment located in western Oregon.

42 (c) January 1, 2029, for sales to a retail dealer's establishment located anywhere in this
43 state.

44 (5) Notwithstanding subsections (1) to (4) of this section and the definition of "renewable
45 diesel" in section 1 of this 2022 Act, a retail dealer, nonretail dealer or wholesale dealer may

1 offer for sale in eastern Oregon diesel fuel that otherwise meets the definition of renewable
 2 diesel, but to which substances to prevent congealing or gelling have been added, including
 3 petroleum diesel in concentrations higher than one percent, during the period beginning on
 4 October 1 of each year and ending on February 28 of the following year.

5 (6) Notwithstanding subsections (1) to (4) of this section, the State Department of Agri-
 6 culture may suspend enforcement of the provisions of this section as provided in section 4
 7 of this 2022 Act.

8 **SECTION 3.** (1) The State Department of Agriculture, in consultation with the Depart-
 9 ment of Environmental Quality, shall study:

10 (a) The supply in this state of petroleum diesel, renewable diesel and fuels that can be
 11 used as alternatives to petroleum diesel;

12 (b) Whether the supply of fuels that can be used as alternatives to petroleum diesel is
 13 sufficient to meet the anticipated demand of government bodies, businesses and individuals
 14 for fuel while satisfying the requirements of sections 2 and 5 of this 2022 Act; and

15 (c) The effects of sections 2 and 5 of this 2022 Act on the clean fuels program adopted
 16 by the Environmental Quality Commission by rule under ORS 468A.266.

17 (2) The State Department of Agriculture shall annually report the results of the study
 18 conducted under subsection (1) of this section to the interim committees of the Legislative
 19 Assembly related to energy in the manner provided in ORS 192.245.

20 **SECTION 4.** (1) The State Department of Agriculture shall determine the average price
 21 of renewable diesel in Oregon every 14 days.

22 (2) If the average price determined under subsection (1) of this section exceeds the price
 23 of petroleum diesel, as measured by the Oil Price Information Service (OPIS), made available
 24 to a storage terminal located in Portland, Eugene or Umatilla County by 10 percent or more
 25 for a period of 14 consecutive days, the department shall suspend for a period of 90 days
 26 enforcement of the provisions of section 2 of this 2022 Act for petroleum diesel distributed
 27 from that terminal.

28 (3) If the department determines under section 3 of this 2022 Act that the anticipated
 29 supply of renewable diesel in this state is insufficient to meet anticipated demand, the de-
 30 partment shall suspend enforcement of sections 2 and 5 of this 2022 Act for a period of no
 31 less than one year. The department may resume enforcement of sections 2 and 5 of this 2022
 32 Act if, in a subsequent report under section 3 of this 2022 Act, the department determines
 33 that the anticipated supply of renewable diesel is sufficient to meet anticipated demand.

34 **SECTION 5.** (1) As used in this section:

35 (a) “Eastern Oregon” has the meaning given that term in section 1 of this 2022 Act.

36 (b) “Motor vehicle” has the meaning given that term in section 1 of this 2022 Act.

37 (c) “Petroleum diesel” has the meaning given that term in section 1 of this 2022 Act.

38 (d) “Public body” has the meaning given that term in ORS 174.109.

39 (e) “State government” has the meaning given that term in ORS 174.111.

40 (f) “Western Oregon” has the meaning given that term in section 1 of this 2022 Act.

41 (2) On or after the dates provided in subsection (3) of this section, a public body may not
 42 purchase petroleum diesel for use in a motor vehicle subject to the control of the public
 43 body.

44 (3) Subsection (2) of this section applies to the following public bodies on or after the
 45 following dates:

1 (a) For public bodies located within Clackamas, Washington or Multnomah County, Jan-
2 uary 1, 2025;

3 (b) For public bodies located in western Oregon, January 1, 2027; and

4 (c) For all public bodies in this state, January 1, 2029.

5 (4) The requirements of subsection (3)(a) and (b) of this section apply to a state govern-
6 ment body to the extent that the state government body regularly purchases diesel fuel for
7 use or storage within an area described in subsection (3)(a) or (b) of this section.

8 (5) Notwithstanding subsections (2) and (3) of this section:

9 (a) The requirements of this section do not apply during any period in which the State
10 Department of Agriculture has suspended enforcement of this section pursuant to section 4
11 of this 2022 Act.

12 (b) A public body may purchase fuel described in section 2 (5) of this 2022 Act for use in
13 a motor vehicle in eastern Oregon.

14 **SECTION 6.** ORS 646.957 is amended to read:

15 646.957. (1) In accordance with any applicable provision of ORS chapter 183, the Director of
16 Agriculture, not later than December 1, 1997, shall adopt rules to carry out the provisions of ORS
17 646.947 to 646.963. Such rules may include, but are not limited to, motor vehicle fuel grade adver-
18 tising, pump grade labeling, testing procedures, quality standards and identification requirements for
19 motor vehicle fuels and ethanol, biodiesel and other renewable diesel, as those terms are defined in
20 ORS 646.905. Rules adopted by the director under this section shall be consistent, to the extent the
21 director considers appropriate, with the most recent standards adopted by ASTM International. As
22 standards of ASTM International are revised, the director shall revise the rules in a manner con-
23 sistent with the revisions unless the director determines that those revised rules will significantly
24 interfere with the director's ability to carry out the provisions of ORS 646.947 to 646.963. Rules
25 adopted pursuant to this section must adequately protect confidential business information and trade
26 secrets that the director or the director's authorized agent may discover when inspecting books,
27 papers and records pursuant to ORS 646.955.

28 (2) Testing requirements, specifications and frequency of testing for each production lot of
29 biodiesel, biodiesel blend or other renewable diesel produced in or brought into this state shall be
30 defined by the director by rule.

31 (3) The director may adopt rules under this section to implement and enforce sections 1
32 to 4 and 5 of this 2022 Act.

33 **SECTION 7.** (1) The State Forestry Department shall study the feasibility of converting
34 lignocellulosic biomass derived from invasive tree species, including western juniper, into
35 renewable diesel feedstocks or other renewable fuel feedstocks. The study may include an
36 analysis of the feasibility of identifying and harvesting invasive tree species and the impacts
37 of invasive tree species on wildfire, drought and climate change.

38 (2) The department shall provide the results of the study in a report to the interim
39 committees of the Legislative Assembly related to natural resources in the manner provided
40 under ORS 192.245 no later than September 15, 2023.

41 **SECTION 8.** Section 7 of this 2022 Act is repealed on January 2, 2024.

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