

Requested by Representative OWENS

**PROPOSED AMENDMENTS TO
HOUSE BILL 2685**

1 On page 1 of the printed bill, line 2, after “315.141” insert “, 315.144”.

2 Delete lines 5 through 30 and delete pages 2 through 4 and insert:

3 **“SECTION 1.** Section 6, chapter 739, Oregon Laws 2007, as amended by
4 section 5, chapter 590, Oregon Laws 2007, section 18, chapter 913, Oregon
5 Laws 2009, section 2, chapter 730, Oregon Laws 2011, section 11, chapter 29,
6 Oregon Laws 2016, and section 12, chapter 610, Oregon Laws 2017, is
7 amended to read:

8 **“Sec. 6.** (1) ORS 315.141, 315.144 and 469B.403 apply to tax credits for tax
9 years beginning on or after January 1, 2007, and before January 1, 2018[.],
10 **and to tax years beginning on or after January 1, 2024, and before**
11 **January 1, 2030.**

12 “(2) Notwithstanding subsection (1) of this section, a tax credit is not
13 allowed for wheat grain (other than nongrain wheat material) for tax years
14 beginning before January 1, 2009, or on or after January 1, 2018.

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

16 “315.141. (1) As used in this section:

17 “(a) ‘Agricultural producer’ means a person that produces biomass in
18 Oregon that is used, in Oregon, as biofuel or to produce biofuel **or**
19 **biochar.**

20 “(b) ‘Biochar’ means biomass that has been carbonized or charred
21 **from untreated plant or animal material.**

1 “(c) ‘Biochar producer’ means a person that through activities in
2 Oregon alters the physical makeup of biomass to convert it into
3 biochar that is intended for purposes that include use as a soil
4 amendment, use in agricultural applications or use in the reclamation
5 of contaminated land and water.

6 “[(b)] (d) ‘Biofuel’ means liquid, gaseous or solid fuels, derived from
7 biomass, that have been converted into a processed fuel ready for use as
8 energy by a biofuel producer’s customers or for direct biomass energy use
9 at the biofuel producer’s site.

10 “[(c)] (e) ‘Biofuel producer’ means a person that through activities in
11 Oregon:

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

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

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

15 “[(d)] (f) ‘Biomass’ means organic matter that is available on a renewable
16 or recurring basis and that is derived from:

17 “(A) Forest or rangeland woody debris from harvesting or thinning con-
18 ducted to improve forest or rangeland ecological health and reduce unchar-
19 acteristic stand replacing wildfire risk;

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

21 “(C) Agricultural residues;

22 “[(D)] *Offal and tallow from animal rendering;*]

23 “[(E)] *Food wastes collected as provided under ORS chapter 459 or 459A;*]

24 “[(F)] (D) Wood debris collected as provided under ORS chapter 459 or
25 459A; **or**

26 “[(G)] *Wastewater solids; or*]

27 “[(H)] (E) Crops grown solely to be used for energy.

28 “[(e)] (g) ‘Biomass’ does not mean wood that has been treated with
29 creosote, pentachlorophenol, inorganic arsenic or other inorganic chemical
30 compounds or waste, other than matter described in paragraph (d) of this

1 subsection.

2 “[*f*] (h) ‘Biomass collector’ means a person that collects biomass in
3 Oregon to be used, in Oregon, as biofuel or to produce biofuel **or biochar**.

4 “[*g*] (i) ‘Canola’ means plants of the genus *Brassica*:

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

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

9 “[*h*] ‘*Oilseed processor*’ means a person that receives agricultural oilseeds
10 and separates them into meal and oil by mechanical or chemical means.]

11 “[*i*] (j) ‘Willamette Valley’ means Clackamas, Linn, Marion, Multnomah,
12 Polk, Washington and Yamhill Counties and the portion of Benton and Lane
13 Counties lying east of the summit of the Coast Range.

14 “(2) The [*Director of the State Department of Energy*] **State Forester** may
15 adopt rules to define criteria, only as the criteria apply to organic biomass,
16 to determine additional characteristics of biomass for purposes of this sec-
17 tion.

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

21 “(A) The production of biomass in Oregon that is used, in Oregon, as
22 biofuel or to produce biofuel **or biochar**; or

23 “(B) The collection of biomass in Oregon that is used, in Oregon, as
24 biofuel or to produce biofuel **or biochar**.

25 “(b) A credit under this section may be claimed in the tax year in which
26 the credit is certified under subsection (5) of this section.

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

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

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

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

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

8 “(4) The amount of the credit shall equal the amount certified under
9 subsection (5) of this section.

10 “(5)(a) The State [*Department of Energy*] **Forestry Department** may es-
11 tablish by rule procedures and criteria for determining the amount of the tax
12 credit to be certified under this section, consistent with ORS 469B.403. **For**
13 **mixed loads containing biomass and other wood products, the depart-**
14 **ment shall establish by rule criteria to determine and certify the**
15 **amount of credit allowed for that portion of the load consisting of**
16 **biomass.** The department shall provide written certification to taxpayers
17 that are eligible to claim the credit under this section.

18 “(b) The State [*Department of Energy*] **Forestry Department** may charge
19 and collect a fee from taxpayers for certification of credits under this sec-
20 tion. The fee may not exceed the cost to the department of determining the
21 amount of certified cost.

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

24 “(7) Each agricultural producer or biomass collector shall maintain the
25 written documentation of the amount certified for tax credit under this sec-
26 tion in its records for a period of at least five years after the tax year in
27 which the credit is claimed and provide the written documentation to the
28 Department of Revenue upon request.

29 “(8) The credit shall be claimed on a form prescribed by the Department
30 of Revenue that contains the information required by the department.

1 “(9) Any tax credit otherwise allowable under this section that is not used
2 by the taxpayer in a particular tax year may be carried forward and offset
3 against the taxpayer’s tax liability for the next succeeding tax year. Any
4 credit remaining unused in the next succeeding tax year may be carried
5 forward and used in the second succeeding tax year, and likewise any credit
6 not used in that second succeeding tax year may be carried forward and used
7 in the third succeeding tax year, and any credit not used in that third suc-
8 ceeding tax year may be carried forward and used in the fourth succeeding
9 tax year, but may not be carried forward for any tax year thereafter.

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

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

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

16 “(c) If a change in the tax year of the taxpayer occurs as described in
17 ORS 314.085, or if the department terminates the taxpayer’s tax year under
18 ORS 314.440, the credit allowed under this section shall be prorated or com-
19 puted in a manner consistent with ORS 314.085.

20 “(11) The [*Director of the State Department of Energy*] **State Forester**
21 may order the suspension or revocation of a certification issued under this
22 section, as provided in ORS 315.061.

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

24 “315.144. (1) A person that has obtained a tax credit under ORS 315.141
25 may transfer the credit to a taxpayer subject to tax under ORS chapter 316,
26 317 or 318.

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

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

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

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

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

9 and

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

11 “(4) The State [*Department of Energy*] **Forestry Department** may estab-
12 lish by rule a minimum discounted value of a tax credit under this section.

13 “(5) The Department of Revenue, in consultation with the State [*Depart-*
14 *ment of Energy*] **Forestry Department**, may by rule establish procedures for
15 the transfer of tax credits provided by this section.

16 “**SECTION 4.** ORS 469B.403 is amended to read:

17 “469B.403. To be eligible for the tax credit under ORS 315.141, the biomass
18 must be produced or collected in Oregon as a feedstock for **biochar**,
19 bioenergy or biofuel production in Oregon. The credit [*rates for biomass*
20 *are:*] **rate for biomass is \$10 per bone dry ton.**

21 “[*(1) For oilseed crops, \$0.05 per pound.*]

22 “[*(2) For grain crops, including but not limited to wheat, barley and*
23 *triticale, \$0.90 per bushel.*]

24 “[*(3) For virgin oil or alcohol delivered for production in Oregon from*
25 *Oregon-based feedstock, \$0.10 per gallon.*]

26 “[*(4) For used cooking oil or waste grease, \$0.10 per gallon.*]

27 “[*(5) For wastewater biosolids, \$10.00 per wet ton.*]

28 “[*(6) For woody biomass collected from nursery, orchard, agricultural, for-*
29 *est or rangeland property in Oregon, including but not limited to prunings,*
30 *thinning, plantation rotations, log landing or slash resulting from harvest or*

1 *forest health stewardship, \$10.00 per bone dry ton.]*

2 *“(7) For grass, wheat, straw or other vegetative biomass from agricultural*
3 *crops, \$10.00 per bone dry ton.]*

4 *“(8) For animal manure or rendering offal, \$3.50 per wet ton.]*

5 **“SECTION 5. The amendments to ORS 315.141, 315.144 and 469B.403**
6 **by sections 2 to 4 of this 2023 Act apply to tax years beginning on or**
7 **after January 1, 2024, and before January 1, 2030.**

8 **“SECTION 6. This 2023 Act takes effect on the 91st day after the**
9 **date on which the 2023 regular session of the Eighty-second Legislative**
10 **Assembly adjourns sine die.”.**

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