

House Bill 2086

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Revenue)

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**.

Imposes fee on fossil fuel or fossil fuel-generated electricity to be paid by vendors. Directs Public Utility Commission to calculate vendors' carbon emissions rate and provide assessments to vendors.

Establishes Pollution Refund Credit Trust Fund.

Distributes moneys collected from fee to registered voters in equal shares.

Appropriates moneys from General Fund to Department of Revenue and commission for purpose of funding first year of administration of fee.

Applies to fossil fuels sold to consumers or used to produce electricity on or after January 1, 2016.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to climate protection; prescribing an effective date; and providing for revenue raising that
3 requires approval by a three-fifths majority.

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

5 **SECTION 1. Sections 2 to 7 of this 2015 Act shall be known and may be cited as the**
6 **Oregon Climate Protection Act.**

7 **SECTION 2. The Legislative Assembly finds that:**

8 (1) **Enacting the provisions proposed in sections 2 to 7 of this 2015 Act will benefit the**
9 **economy, human health, the environment and national security as a result of correcting**
10 **market distortions, reductions in non-greenhouse gas pollutants, reducing the outflow of**
11 **dollars to oil-producing countries and improving the energy security of the United States.**

12 (2) **Phased-in carbon fees on greenhouse gas emissions will:**

13 (a) **Be the most efficient, transparent and enforceable mechanism to drive an effective**
14 **and fair transition to a domestic energy economy;**

15 (b) **Stimulate investment in alternative energy technologies; and**

16 (c) **Provide all businesses powerful incentives to increase energy efficiency and reduce**
17 **carbon footprints in order to remain competitive.**

18 (3) **Equal credits or refunds paid to every registered voter in this state can help ensure**
19 **that families and individuals can afford the energy they need during the transition to a**
20 **greenhouse gas-free economy.**

21 **SECTION 3. As used in sections 2 to 7 of this 2015 Act:**

22 (1) **"Bulk transfer" means any change in ownership of fuel contained in a terminal stor-**
23 **age facility or any physical movement of fuel between terminal storage facilities by pipeline**
24 **or marine transport.**

25 (2) **"First sale, use or distribution" means the first withdrawal, other than by bulk**
26 **transfer, of fuel from terminal storage facilities for sale, use or distribution in this state.**

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 **“First sale, use or distribution” also means the first sale, use or distribution of motor vehicle**
 2 **fuel or aircraft fuel after import into this state if the motor vehicle fuel or aircraft fuel is**
 3 **delivered other than to the terminal storage facilities of a licensed dealer.**

4 (3) **“Fossil fuel” means coal, natural gas, petroleum products and any other product used**
 5 **for fuel that contains carbon and emits carbon dioxide when combusted. “Fossil fuel” does**
 6 **not include any product used for fuel that is from a resource that is fewer than 1,000 years**
 7 **old in its natural state.**

8 (4) **“Fossil fuel-generated electricity” means electric energy that is produced using a**
 9 **fossil fuel.**

10 (5) **“Fuel supplier” means a person that sells fossil fuel to consumers.**

11 (6) **“Liquid fuel” includes aviation gas, butane, gasoline, jet fuel, kerosene and propane.**

12 (7) **“Utility” means a public utility operating under ORS chapter 757, a people’s utility**
 13 **district operating under ORS chapter 261, a municipal utility operating under ORS chapter**
 14 **225 or any other entity that supplies fossil fuel-generated electricity to consumers.**

15 (8) **“Vendor” includes utilities, energy service providers and wholesalers.**

16 **SECTION 4. (1) A fee is imposed on all fossil fuels and fossil fuel-generated electricity**
 17 **at the equivalent rate of \$30 per metric ton of carbon dioxide emissions. Fees shall be col-**
 18 **lected at the first sale, use or distribution of each unit of fuel or each carbon emission.**

19 (2) **The fee for liquid fuel shall be collected at the first point that retailers purchase**
 20 **wholesale quantities in this state.**

21 (3) **Fees for fossil fuel-generated electricity shall be paid by all utilities, energy service**
 22 **providers and any other vendor of electricity inside this state.**

23 (4) **If a fee is collected from a wholesaler of electricity in this state, the wholesaler’s**
 24 **customers may not be assessed a second fee when they sell to their own customers.**

25 (5) **On January 1 of each year, beginning in 2017, the fees imposed under this section shall**
 26 **be annually increased as follows:**

27 (a) **The fee shall be increased by \$10 per ton of carbon dioxide emissions; and**

28 (b) **The Department of Revenue shall additionally adjust the fee according to the cost-**
 29 **of-living adjustment for the calendar year. The department shall make the adjustment by**
 30 **multiplying the increased rate specified in paragraph (a) of this subsection by the percentage**
 31 **(if any) by which the monthly averaged U.S. City Average Consumer Price Index for the 12**
 32 **consecutive months ending August 31 of the prior calendar year exceeds the monthly aver-**
 33 **aged U.S. City Average Consumer Price Index for the 12 consecutive months ending August**
 34 **31, 2015. As used in this paragraph, “U.S. City Average Consumer Price Index” means the**
 35 **U.S. City Average Consumer Price Index for All Urban Consumers (All Items) as published**
 36 **by the Bureau of Labor Statistics of the United States Department of Labor.**

37 (6) **The fee imposed under this section does not apply to:**

38 (a) **Carbon-based fuel or carbon-generated electricity that this state is prohibited from**
 39 **taxing under the Constitution or laws of the United States or the Constitution or laws of the**
 40 **State of Oregon.**

41 (b) **Any fuel supplier or utility that is administered by a federal agency.**

42 (c) **Any carbon-based fuel or carbon-generated electricity that is transported through**
 43 **this state, or produced in this state, but not consumed in this state.**

44 **SECTION 5. (1) On or before the last day of each month, all vendors shall make a report**
 45 **to the Public Utility Commission. The report shall include the vendor’s total carbon dioxide**

1 emissions for the prior month.

2 (2) All vendors of electricity shall report carbon dioxide emissions to the commission,
3 whether generated directly from that vendor's activities or by a third party selling electricity
4 to the vendor. The report shall include the vendor's total carbon dioxide emissions related
5 to generation, in metric tons, the vendor's total electricity sold to all customers, in millions
6 of Btu, and the vendor's total electricity sold in this state, in millions of Btu.

7 (3) The commission shall exclude fees paid by utilities in compliance with sections 2 to 7
8 of this 2015 Act from the total assessment of their costs, such that the fees cannot be used
9 to justify an increase in consumers' bills to allow the utilities to meet their guaranteed rate
10 of return.

11 (4) The commission shall calculate each electricity vendor's carbon emission rate, defined
12 by the metric tons of carbon emitted divided by its total electricity generated over the
13 month.

14 (5) Fees imposed under section 4 of this 2015 Act shall be collected on a monthly basis.

15 (6) On or before the last day of each month, the Department of Revenue shall send to
16 each fuel supplier and utility an assessment that identifies the liability of the vendor for the
17 last reported month for the fee imposed under section 4 of this 2015 Act.

18 (7) On or before the 15th day of each month, each fuel supplier and utility that receives
19 an assessment under subsection (6) of this section shall pay the amount of the fee that is
20 due to the department.

21 (8) If the amount paid by the fuel supplier or utility under subsection (7) of this section
22 exceeds the amount of fee payable, the department shall refund the amount of the excess
23 with interest at the rate established under ORS 305.220 for payment of refunds for each
24 month or fraction of a month from the date of payment of the excess until the date of the
25 refund. A refund is not available to a fuel supplier or utility that fails to claim the refund
26 within two years after the due date for the filing of the return with respect to which the
27 claim for refund relates.

28 (9) If a fuel supplier or utility fails to pay the fee assessed against it under subsection
29 (6) of this section, the department may enforce collection by the issuance of a distraint
30 warrant for the collection of the delinquent amount and all penalties, interest and collection
31 charges. The warrant shall be issued, docketed and proceeded upon in the same manner and
32 shall have the same force and effect as is prescribed with respect to warrants for the col-
33 lection of delinquent income taxes.

34 SECTION 6. Moneys received by the Department of Revenue pursuant to the fee imposed
35 under section 4 of this 2015 Act shall be deposited in a suspense account created pursuant
36 to ORS 293.445. After the payment of costs for the implementation and enforcement of
37 sections 2 to 7 of this 2015 Act and repayment of any funds borrowed to initiate implemen-
38 tation and enforcement of sections 2 to 7 of this 2015 Act, moneys in that account shall be
39 transferred to the Pollution Refund Credit Trust Fund established in section 7 of this 2015
40 Act. Not later than September 30 of each year, all but \$50 million of the Pollution Refund
41 Credit Trust Fund shall be distributed in equal shares to all registered voters in this state
42 who were registered for the most recent general election. The checks shall be mailed to the
43 last known address of each voter no later than September 30 of each year.

44 SECTION 7. The Pollution Refund Credit Trust Fund is established in the State Treasury,
45 separate and distinct from the General Fund. Interest earned by the Pollution Refund Credit

1 **Trust Fund shall be credited to the fund. Moneys in the fund are continuously appropriated**
2 **to the Department of Revenue for the payment of distributions as provided in section 6 of**
3 **this 2015 Act.**

4 **SECTION 8. (1) In addition to and not in lieu of any other appropriation, there is appro-**
5 **priated to the Department of Revenue, for the biennium beginning July 1, 2015, out of the**
6 **General Fund, the amount of \$_____, which may be expended for the purpose of funding**
7 **the first year of administration of the fee imposed under section 4 of this 2015 Act.**

8 **(2) In addition to and not in lieu of any other appropriation, there is appropriated to the**
9 **Public Utility Commission, for the biennium beginning July 1, 2015, out of the General Fund,**
10 **the amount of \$_____, which may be expended for the purpose of assisting the Public**
11 **Utility Commission in administering the first year of the fee imposed under section 4 of this**
12 **2015 Act.**

13 **SECTION 9. Sections 2 to 7 of this 2015 Act apply to fossil fuels sold to consumers in this**
14 **state or used to produce electricity that is supplied to consumers in this state on or after**
15 **January 1, 2016.**

16 **SECTION 10. This 2015 Act takes effect on the 91st day after the date on which the 2015**
17 **regular session of the Seventy-eighth Legislative Assembly adjourns sine die.**

18