

# House Bill 3034

Sponsored by Representatives DINGFELDER, KROPF, Senators METSGER, NELSON; Representatives AVAKIAN, BERGER, BEYER, BOONE, BOQUIST, BROWN, BRUUN, BUCKLEY, BURLEY, BUTLER, DALLUM, FARR, GARRARD, HANNA, HASS, HUNT, JENSON, KOMP, KRIEGER, MARCH, ROBLAN, ROSENBAUM, G SMITH, P SMITH, SUMNER, TOMEI, WHISNANT, WITT, Senators MORRISETTE, PROZANSKI, WESTLUND

## 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 Oregon Department of Administrative Services to determine total amount of diesel used in state vehicles during year. Directs department to purchase and make available for use in following year amount of biodiesel greater than or equal to five percent of total amount.

Reduces use fuel tax for use of biodiesel.

Allows owners of registered farm vehicles to apply for refund of use fuel tax paid if fuel used is pure biodiesel.

Sunsets provisions relating to use fuel tax on January 2, 2012.

## A BILL FOR AN ACT

Relating to biodiesel; creating new provisions; and amending ORS 283.305, 283.327, 319.530 and 319.831.

Whereas using biodiesel in place of, or blended with, petroleum diesel reduces emissions of carbon monoxide, hydrocarbons and particulate matter; and

Whereas biodiesel biodegrades faster than petroleum diesel; and

Whereas biodiesel is less toxic to humans and the environment than petroleum diesel; and

Whereas biodiesel has lower lifecycle carbon dioxide emissions than petroleum diesel; and

Whereas the United States Environmental Protection Agency's emission standards for petroleum diesel that take effect on June 1, 2006, will require the addition of a lubricant to ultra-low sulfur diesel to counteract premature wear of injection pumps and biodiesel provides the needed lubricity; and

Whereas biodiesel can be produced domestically, thus reducing dependency on imported oil; and

Whereas in-state production of biodiesel will result in value-added processing in Oregon and increases in jobs and rural income; now, therefore,

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

**SECTION 1.** ORS 283.305 is amended to read:

283.305. As used in ORS 283.305 to 283.350:

(1) "Authorized driver" means any of the following who has a valid driver license and an acceptable driving record:

(a) A salaried state employee, including an agent of the state;

(b) A volunteer, appointed in writing, whose written description of duties includes driving motor vehicles;

(c) An agency client required to drive motor vehicles as part of a rehabilitation or treatment program authorized by law;

(d) Any personnel of any unit of government whose use of motor vehicles is permitted by an authorized intergovernmental agreement;

**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.

(e) Any student enrolled at any state institution of higher education and whose use of motor vehicles meets the requirements of ORS 283.310; and

(f) An inmate of a correctional institution with specific Department of Corrections approval who is accompanied by a supervising correctional institution employee or who is performing a specific work assignment driving a special purpose vehicle required for that assignment and within the visual range of a supervising correctional institution employee who is at the work assignment site or who is part of the transport caravan.

(2) "Alternative fuel" means **biodiesel**, natural gas, liquified petroleum gas, methanol, ethanol, any fuel mixture containing at least 85 percent methanol or ethanol and electricity.

(3) "Motor vehicles" includes state-owned, leased or otherwise controlled motor vehicles and the supplies, parts and equipment for the operation, maintenance or repair of such motor vehicles.

(4) "Official state business" means activity conducted by a state agency that advances the lawful policies of the agency as specified by the Oregon Department of Administrative Services by rule.

(5) "Standard passenger vehicle" means a motor vehicle that is commonly known as a sedan or a station wagon and that is not equipped with special or unusual equipment.

(6) "State agency" or "agency" includes the Legislative Assembly, at its option, or any of its statutory, standing, special or interim committees, at the option of such committee.

**SECTION 2.** ORS 283.327 is amended to read:

283.327. (1) To the maximum extent economically possible, state-owned motor vehicles, **whether the motor vehicles are for on-road, off-road or construction applications**, shall use alternative fuel for operation.

(2) After July 1, 1994, state agencies shall acquire only motor vehicles capable of using alternative fuel, except that acquired vehicles assigned to areas unable economically to dispense alternative fuel need not be so configured.

**(3) By January 15 of each year, the Oregon Department of Administrative Services shall determine the total amount of diesel fuel used during the preceding year by all state-owned motor vehicles, whether the motor vehicles are for on-road, off-road or construction applications. Based on that determination, the department shall, in making fuel purchases for the year, purchase and make available for use by the state motor pool an amount of biodiesel greater than or equal to five percent of the amount of diesel fuel used the preceding year. The department may, in meeting the five-percent requirement established in this subsection:**

**(a) Subsidize the purchase of biodiesel by school districts; or**

**(b) Purchase pure or blended biodiesel.**

[(3)] (4) Each agency owning motor vehicles shall comply with all safety standards established by the United States Department of Transportation in the conversion, operation and maintenance of vehicles using alternative fuel.

**SECTION 3.** ORS 319.530 is amended to read:

319.530. (1) To compensate this state partially for the use of its highways, an excise tax [hereby] is imposed at the rate of 24 cents per gallon on the use of fuel in a motor vehicle.

(2) Except as otherwise provided in subsections [(2) and (3)] **(3) and (4)** of this section, 100 cubic feet of fuel used or sold in a gaseous state, measured at 14.73 pounds per square inch of pressure at 60 degrees Fahrenheit, is taxable at the same rate as a gallon of liquid fuel.

[(2)] **(3)** One hundred twenty cubic feet of compressed natural gas used or sold in a gaseous state, measured at 14.73 pounds per square inch of pressure at 60 degrees Fahrenheit, is taxable at the same rate as a gallon of liquid fuel.

1        [(3)] (4) One and three-tenths liquid gallons of propane at 60 degrees Fahrenheit is taxable at  
 2        the same rate as a gallon of other liquid fuel.

3        **(5) Notwithstanding the excise tax specified in subsection (1) of this section, if the fuel**  
 4        **used in a motor vehicle is pure or part biodiesel, the excise tax imposed under this section**  
 5        **shall be reduced at the rate of 0.24 cents per gallon for each percent of biodiesel contained**  
 6        **in the fuel.**

7        **SECTION 4.** ORS 319.530, as amended by section 3 of this 2005 Act, is amended to read:

8        319.530. (1) To compensate this state partially for the use of its highways, an excise tax is im-  
 9        posed at the rate of 24 cents per gallon on the use of fuel in a motor vehicle.

10        (2) Except as otherwise provided in subsections (3) and (4) of this section, 100 cubic feet of fuel  
 11        used or sold in a gaseous state, measured at 14.73 pounds per square inch of pressure at 60 degrees  
 12        Fahrenheit, is taxable at the same rate as a gallon of liquid fuel.

13        (3) One hundred twenty cubic feet of compressed natural gas used or sold in a gaseous state,  
 14        measured at 14.73 pounds per square inch of pressure at 60 degrees Fahrenheit, is taxable at the  
 15        same rate as a gallon of liquid fuel.

16        (4) One and three-tenths liquid gallons of propane at 60 degrees Fahrenheit is taxable at the  
 17        same rate as a gallon of other liquid fuel.

18        *[(5) Notwithstanding the excise tax specified in subsection (1) of this section, if the fuel used in a*  
 19        *motor vehicle is pure or part biodiesel, the excise tax imposed under this section shall be reduced at*  
 20        *the rate of 0.24 cents per gallon for each percent of biodiesel contained in the fuel.]*

21        **SECTION 5. The amendments to ORS 319.530 by section 4 of this 2005 Act become oper-**  
 22        **ative on January 2, 2012.**

23        **SECTION 6.** ORS 319.831 is amended to read:

24        319.831. (1) If a user obtains fuel for use in a motor vehicle in this state and pays the use fuel  
 25        tax on the fuel obtained, the user may apply for a refund of that part of the use fuel tax paid which  
 26        is applicable to use of the fuel to propel a motor vehicle:

27        (a) In another state, if the user pays to the other state an additional tax on the same fuel;

28        (b) Upon any road, thoroughfare or property in private ownership;

29        (c) Upon any road, thoroughfare or property, other than a state highway, county road or city  
 30        street, for the removal of forest products, as defined in ORS 321.005, or the products of such forest  
 31        products converted to a form other than logs at or near the harvesting site, or for the construction  
 32        or maintenance of the road, thoroughfare or property, pursuant to a written agreement or permit  
 33        authorizing the use, construction or maintenance of the road, thoroughfare or property, with or by:

34        (A) An agency of the United States;

35        (B) The State Board of Forestry;

36        (C) The State Forester; or

37        (D) A licensee of an agency named in subparagraph (A), (B) or (C) of this paragraph;

38        (d) By an agency of the United States or of this state or of any county, city or port of this state  
 39        on any road, thoroughfare or property, other than a state highway, county road or city street;

40        (e) By any incorporated city or town of this state;

41        (f) By any county of this state or by any road assessment district formed under ORS 371.405 to  
 42        371.535;

43        (g) Upon any county road for the removal of forest products as defined in ORS 321.005, or the  
 44        products of such forest products converted to a form other than logs at or near the harvesting site,  
 45        if:

(A) Such use upon the county road is pursuant to a written agreement entered into with, or to a permit issued by, the State Board of Forestry, the State Forester or an agency of the United States, authorizing such user to use such road and requiring such user to pay for or to perform the construction or maintenance of the county road;

(B) The board, officer or agency that entered into the agreement or granted the permit, by contract with the county court or board of county commissioners, has assumed the responsibility for the construction or maintenance of such county road; and

(C) Copies of the agreements or permits required by subparagraphs (A) and (B) of this paragraph are filed with the Department of Transportation;

(h) By a school district or education service district of this state or the contractors of a school district or education service district, for those vehicles being used to transport students;

(i) By a rural fire protection district organized under the provisions of ORS chapter 478;

(j) By any district, as defined in ORS chapter 198, that is not otherwise specifically provided for in this section; *[or]*

(k) By any state agency, as defined in ORS 240.855; **or**

**(L) In any location, if the motor vehicle has a registration plate issued under ORS 803.520 but meets the qualifications under ORS 805.310 for farm vehicle registration and if the fuel used to propel the motor vehicle is pure biodiesel.**

(2) An application for a refund under subsection (1) of this section shall be filed with the department within 15 months after the date the use fuel tax, for which a refund is claimed, is paid.

(3) The application for a refund provided by subsection (1) of this section shall include a signed statement by the applicant indicating the amount of fuel for which a refund is claimed, and the way in which the fuel was used which qualifies the applicant for a refund. If the fuel upon which the refund is claimed was obtained from a seller to whom the use fuel tax was paid, the application shall be supported by the invoices which cover the purchase of the fuel. If the applicant paid the use fuel tax directly to the department, the applicant shall indicate the source of the fuel and the date it was obtained.

(4) The department may require any person who applies for a refund provided by subsection (1) of this section to furnish a statement, under oath, giving the person's occupation, description of the machines or equipment in which the fuel was used, the place where used and such other information as the department may require.

**SECTION 7.** ORS 319.831, as amended by section 6 of this 2005 Act, is amended to read:

319.831. (1) If a user obtains fuel for use in a motor vehicle in this state and pays the use fuel tax on the fuel obtained, the user may apply for a refund of that part of the use fuel tax paid which is applicable to use of the fuel to propel a motor vehicle:

(a) In another state, if the user pays to the other state an additional tax on the same fuel;

(b) Upon any road, thoroughfare or property in private ownership;

(c) Upon any road, thoroughfare or property, other than a state highway, county road or city street, for the removal of forest products, as defined in ORS 321.005, or the products of such forest products converted to a form other than logs at or near the harvesting site, or for the construction or maintenance of the road, thoroughfare or property, pursuant to a written agreement or permit authorizing the use, construction or maintenance of the road, thoroughfare or property, with or by:

(A) An agency of the United States;

(B) The State Board of Forestry;

(C) The State Forester; or

(D) A licensee of an agency named in subparagraph (A), (B) or (C) of this paragraph;

(d) By an agency of the United States or of this state or of any county, city or port of this state on any road, thoroughfare or property, other than a state highway, county road or city street;

(e) By any incorporated city or town of this state;

(f) By any county of this state or by any road assessment district formed under ORS 371.405 to 371.535;

(g) Upon any county road for the removal of forest products as defined in ORS 321.005, or the products of such forest products converted to a form other than logs at or near the harvesting site, if:

(A) Such use upon the county road is pursuant to a written agreement entered into with, or to a permit issued by, the State Board of Forestry, the State Forester or an agency of the United States, authorizing such user to use such road and requiring such user to pay for or to perform the construction or maintenance of the county road;

(B) The board, officer or agency that entered into the agreement or granted the permit, by contract with the county court or board of county commissioners, has assumed the responsibility for the construction or maintenance of such county road; and

(C) Copies of the agreements or permits required by subparagraphs (A) and (B) of this paragraph are filed with the Department of Transportation;

(h) By a school district or education service district of this state or the contractors of a school district or education service district, for those vehicles being used to transport students;

(i) By a rural fire protection district organized under the provisions of ORS chapter 478;

(j) By any district, as defined in ORS chapter 198, that is not otherwise specifically provided for in this section; **or**

(k) By any state agency, as defined in ORS 240.855[; or].

*[(L) In any location, if the motor vehicle has a registration plate issued under ORS 803.520 but meets the qualifications under ORS 805.310 for farm vehicle registration and if the fuel used to propel the motor vehicle is pure biodiesel.]*

(2) An application for a refund under subsection (1) of this section shall be filed with the department within 15 months after the date the use fuel tax, for which a refund is claimed, is paid.

(3) The application for a refund provided by subsection (1) of this section shall include a signed statement by the applicant indicating the amount of fuel for which a refund is claimed, and the way in which the fuel was used which qualifies the applicant for a refund. If the fuel upon which the refund is claimed was obtained from a seller to whom the use fuel tax was paid, the application shall be supported by the invoices which cover the purchase of the fuel. If the applicant paid the use fuel tax directly to the department, the applicant shall indicate the source of the fuel and the date it was obtained.

(4) The department may require any person who applies for a refund provided by subsection (1) of this section to furnish a statement, under oath, giving the person's occupation, description of the machines or equipment in which the fuel was used, the place where used and such other information as the department may require.

**SECTION 8. The amendments to ORS 319.831 by section 7 of this 2005 Act become operative on January 2, 2012.**

**SECTION 9. (1) Pursuant to the sustainability goals specified in ORS 184.423 and pursuant to the purposes of the Oregon Department of Administrative Services specified in ORS 184.305, by January 15 of each year, each agency of the state government, as defined in ORS**

1 174.111, shall determine the total amount of diesel fuel used during the preceding year by the  
2 agency in all applications, whether for motor vehicle use or otherwise, and report that  
3 amount to the Oregon Department of Administrative Services.

4 (2) Based on that determination, the agency shall, in making fuel purchases for the year,  
5 purchase and make available for use by the agency an amount of biodiesel greater than or  
6 equal to five percent of the amount of diesel fuel used by the agency in the preceding year.  
7 The agency shall include, as part of its annual report to the Oregon Department of Admin-  
8 istrative Services, the success of the agency's effort in meeting the five-percent requirement  
9 of this subsection.

10 (3) The agency may, in meeting the five-percent requirement established in this section,  
11 purchase pure or blended biodiesel.

12 (4) The Oregon Department of Administrative Services may provide a centralized pur-  
13 chasing infrastructure for the purpose of assisting agencies of the state government in  
14 meeting the goals established under this section.  
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