

House Bill 3447

Sponsored by COMMITTEE ON ELECTIONS AND RULES

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 tax on diesel fuel. Increases truck registration fees. Repeals weight mile tax and flat fees.

A BILL FOR AN ACT

1
2 Relating to taxation of vehicles weighing more than 26,000 pounds; creating new provisions;
3 amending ORS 319.520, 319.690, 366.507, 366.508, 366.739, 366.744, 367.173, 367.605, 367.621,
4 376.390, 802.010, 802.500, 802.520, 803.420, 803.645, 810.530, 818.205, 818.225, 818.270, 825.005,
5 825.007, 825.020, 825.022, 825.137, 825.139, 825.232, 825.354, 825.450, 825.500, 825.504, 825.515,
6 825.517, 826.005, 826.007 and 826.031; repealing ORS 825.212, 825.470, 825.472, 825.474, 825.476,
7 825.480, 825.482, 825.484, 825.486, 825.488, 825.490, 825.492, 825.494, 825.496, 825.502, 825.506,
8 825.507 and 825.550; and providing for revenue raising that requires approval by a three-fifths
9 majority.

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

SECTION 1. As used in sections 1 to 40 of this 2005 Act:

11
12 (1) **"Accountable diesel fuel" means diesel fuel that is subject to the reporting require-**
13 **ments of sections 1 to 40 of this 2005 Act.**

14 (2) **"Blended diesel fuel" means accountable diesel fuel produced by blending that can be**
15 **used to propel a diesel-engine motor vehicle.**

16 (3) **"Blender" means a person who engages in the process of blending.**

17 (4) **"Blending" means the mixing together of products that results in a product that is**
18 **suitable or practical for use as a fuel in diesel engines. "Blending" does not mean the mixing**
19 **that might occur in the process known as refining by the original refiner of crude petroleum.**
20 **The commingling of products during transportation in a pipeline is not considered blending.**

21 (5) **"Bulk storage" means the placing of diesel fuel into a receptacle other than the fuel**
22 **tank of a motor vehicle.**

23 (6) **"Bulk transfer" means a transfer of diesel fuel by pipeline or vessel.**

24 (7) **"Bulk transfer-terminal system" means the diesel fuel distribution system consisting**
25 **of refineries, pipelines, vessels and terminals. Diesel fuel in a refinery, pipeline, vessel or**
26 **terminal is in the bulk transfer-terminal system. Diesel fuel in the fuel tank of an engine**
27 **or motor vehicle, or in a railcar, trailer, truck or other equipment suitable for ground**
28 **transportation, is not in the bulk transfer-terminal system.**

29 (8) **"Diesel fuel" means any liquid that is commonly or commercially known, offered for**
30 **sale or used as fuel in a diesel engine.**

31 (9) **"Direct delivery" means removal of accountable diesel fuel from a bulk storage facility**

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 to another destination by any mode of transportation in which the fuel reaches the destina-
2 tion without interim storage.

3 (10) "Distributor" means a person who acquires accountable diesel fuel from a supplier,
4 distributor or licensee for subsequent sale and distribution.

5 (11) "Dyed diesel fuel user" means a person authorized under the Internal Revenue Code
6 to operate a motor vehicle on the highway using diesel fuel that has been dyed in accordance
7 with Internal Revenue Service requirements, in which the use is not exempt from the diesel
8 fuel tax imposed under section 2 of this 2005 Act.

9 (12) "Evade" or "evasion" means to diminish or avoid the computation, assessment or
10 payment of authorized taxes or fees through:

11 (a) An intentional false statement, misrepresentation of fact or other act of deception;
12 or

13 (b) An intentional omission, failure to file a return or report, or other act of deception.

14 (13) "Export" means to deliver accountable diesel fuel to a destination outside this state.
15 Delivery of accountable diesel fuel outside this state by or on behalf of a seller constitutes
16 exporting by the seller. Delivery of accountable diesel fuel outside this state by or on behalf
17 of a purchaser constitutes exporting by the purchaser.

18 (14) "Exporter" means a person who exports accountable diesel fuel. If the exporter of
19 record is acting as an agent, the person for whom the agent acts is the exporter. If there is
20 no exporter of record, the person who owns the fuel at the time of export is the exporter.

21 (15) "Import" means to deliver accountable diesel fuel into this state. Delivery of ac-
22 countable diesel fuel into this state by or on behalf of a seller constitutes importing by the
23 seller. Delivery of accountable diesel fuel into this state by or on behalf of a purchaser
24 constitutes importing by the purchaser.

25 (16) "Importer" means a person who imports accountable diesel fuel. If the importer of
26 record is acting as an agent, the person for whom the agent acts is the importer. If there
27 is no importer of record, the person who owns the fuel at the time of import is the importer.

28 (17) "International fuel tax agreement licensee" means a diesel fuel user operating qual-
29 ified motor vehicles in interstate commerce and licensed by the Department of Transporta-
30 tion under an international fuel tax agreement described in ORS 825.555.

31 (18) "Licensee" means a person holding a license issued under section 15 of this 2005 Act.

32 (19) "Motor vehicle" means a self-propelled vehicle, designed for operation upon land,
33 that utilizes diesel fuel as the means of propulsion.

34 (20) "Person" means an individual, firm, trust, estate, partnership, association, joint
35 stock company, joint venture, corporation, limited liability company, receiver, trustee,
36 guardian or any other representative appointed by a court. "Person" also means a city,
37 county or other political subdivision of the state. When applied to a partnership or an asso-
38 ciation, "person" includes the partners or members of the partnership or association, in ad-
39 dition to the partnership or an association itself. When applied to a limited liability company
40 or a corporation, "person" includes the officers, agents or employees of the company or
41 corporation in addition to the company or corporation itself.

42 (21) "Pipeline" means a fuel distribution system that moves fuel, in bulk, through a pipe,
43 either from a refinery to a terminal or from a terminal to another terminal.

44 (22) "Position holder" means a person who holds the inventory position in diesel fuel, as
45 reflected by the records of the terminal operator. A person holds the inventory position in

1 diesel fuel if the person has a contractual agreement with the terminal operator for the use
2 of bulk storage facilities and for services at a terminal with respect to diesel fuel. "Position
3 holder" includes a terminal operator who owns diesel fuel in the operator's terminal.

4 (23) "Rack" means a mechanism for delivering diesel fuel from a refinery or terminal into
5 a truck, trailer, railcar or other means of nonbulk transfer.

6 (24) "Refiner" means a person who owns, operates or otherwise controls a refinery.

7 (25) "Refinery" means a facility used to process crude oil, unfinished oil or other
8 hydrocarbons into accountable diesel fuel.

9 (26) "Removal" means a physical transfer of diesel fuel other than by evaporation, loss
10 or destruction.

11 (27) "Sale" means, in addition to its ordinary meaning, any exchange, gift or other dis-
12 position of accountable diesel fuel.

13 (28) "Supplier" means a person who owns and stores diesel fuel in a terminal facility or
14 who refines and stores diesel fuel at a refinery.

15 (29) "Terminal" means a diesel fuel storage and distribution facility that has been as-
16 signed a terminal control number by the Internal Revenue Service, that is supplied by pipe-
17 line or vessel and from which accountable diesel fuel is removed at a rack.

18 (30) "Terminal operator" means a person who owns, operates or otherwise controls a
19 terminal.

20 (31) "Two-party exchange" or "buy-sell agreement" means a transaction in which taxable
21 diesel fuel is transferred from one licensed supplier to another licensed supplier, pursuant
22 to an exchange agreement whereby the supplier that is the position holder agrees to deliver
23 taxable diesel fuel to the other supplier or to the other supplier's customer at the rack of
24 the terminal where the delivering supplier is the position holder.

25 (32) "User" means a person who uses diesel fuel.

26 **SECTION 2.** (1) There is levied and imposed upon diesel fuel a tax at the rate of 29 cents
27 per gallon of diesel fuel.

28 (2) The tax imposed under subsection (1) of this section is imposed when:

29 (a) Diesel fuel is removed from a terminal in this state if the diesel fuel is removed at
30 the rack, unless the removal is to a licensed exporter for direct delivery to a destination
31 outside this state;

32 (b) Diesel fuel is removed from a refinery in this state if:

33 (A) The diesel fuel is removed by bulk transfer and the refiner or the owner of the diesel
34 fuel immediately before the removal is not a licensee; or

35 (B) The diesel fuel is removed at the refinery rack, unless the removal is to a licensed
36 exporter for direct delivery to a destination outside this state;

37 (c) Diesel fuel enters into this state for sale, consumption, use or storage if:

38 (A) The entry is by bulk transfer and the importer is not a licensee; or

39 (B) The entry is not by bulk transfer;

40 (d) Diesel fuel is removed in this state to an unlicensed entity unless there was a prior
41 taxable removal, entry or sale of the diesel fuel;

42 (e) Blended diesel fuel is removed or sold in this state by the blender of the fuel. The
43 number of gallons of blended diesel fuel subject to tax is the difference between the total
44 number of gallons of blended diesel fuel removed or sold and the number of gallons of pre-
45 viously taxed diesel fuel used to produce the blended diesel fuel; or

1 (f) Dyed diesel fuel is used on a highway, as authorized by the Internal Revenue Code,
 2 unless the use is exempt from the diesel fuel tax.

3 (3) The tax imposed under this section, if required to be collected by a licensee, is held
 4 in trust by the licensee until paid to the Department of Transportation. A person who fails
 5 to collect the tax imposed under this section, or who has collected the tax and fails to pay
 6 the tax to the department in the manner prescribed under sections 1 to 40 of this 2005 Act,
 7 is personally liable to the state for the amount of the tax.

8 **SECTION 3.** The tax imposed under section 2 of this 2005 Act, if not previously imposed
 9 and paid, must be paid to the Department of Transportation by diesel fuel users and persons
 10 licensed under an international fuel tax agreement or other fuel tax reciprocity agreements
 11 entered into with the State of Oregon on the use of diesel fuel to operate motor vehicles on
 12 the highways of this state, unless the use is exempt from the tax under sections 1 to 40 of
 13 this 2005 Act.

14 **SECTION 4.** (1) A position holder shall remit tax to the Department of Transportation
 15 on diesel fuel removed from a terminal as provided in section 2 of this 2005 Act. On a two-
 16 party exchange or buy-sell agreement between two suppliers, the receiving exchange partner
 17 or buyer becomes the position holder who shall remit the tax.

18 (2) A refiner shall remit tax to the department on diesel fuel removed from a refinery
 19 as provided in section 2 of this 2005 Act.

20 (3) An importer shall remit tax to the department on diesel fuel imported into this state
 21 as provided in section 2 of this 2005 Act.

22 (4) A blender shall remit tax to the department on the removal or sale of blended diesel
 23 fuel as provided in section 2 of this 2005 Act.

24 (5) A dyed diesel fuel user shall remit tax to the department on the use of dyed diesel fuel
 25 as provided in section 2 of this 2005 Act.

26 **SECTION 5.** A terminal operator is jointly and severally liable for remitting the tax im-
 27 posed under section 2 of this 2005 Act if, at the time of removal:

28 (1) The terminal operator is not a licensee;

29 (2) The position holder is a person other than the terminal operator and is not a licensee;

30 (3) The position holder has an expired Internal Revenue Service notification certificate
 31 issued under 26 C.F.R. part 48; or

32 (4) The terminal operator had reason to believe that information on the notification
 33 certificate was false.

34 **SECTION 6.** A terminal operator is jointly and severally liable for remitting the tax im-
 35 posed under section 2 of this 2005 Act if, in connection with the removal of diesel fuel that
 36 is not dyed in accordance with Internal Revenue Service requirements, the terminal operator
 37 provides a person with a bill of lading, shipping paper or similar document indicating that the
 38 diesel fuel is dyed in accordance with Internal Revenue Service requirements.

39 **SECTION 7.** (1) A person may not operate or maintain a motor vehicle on a public high-
 40 way of this state with dyed diesel fuel in the fuel tank unless the use is authorized under the
 41 Internal Revenue Code and the person holds a valid dyed diesel fuel user license issued to the
 42 person by the Department of Transportation. The diesel fuel tax set forth in section 2 of this
 43 2005 Act is imposed on users of dyed diesel fuel authorized under the Internal Revenue Code
 44 to operate motor vehicles on the highway using dyed diesel fuel, unless the use is exempt
 45 from the diesel fuel tax.

1 (2) Unless such use is expressly authorized under the Internal Revenue Code or sections
2 1 to 40 of this 2005 Act, a person who uses dyed diesel fuel in operating a motor vehicle on
3 the public highways of this state is subject to a civil penalty of \$10 for each gallon of dyed
4 diesel fuel placed into the fuel tank of the motor vehicle, or \$1,000, whichever is greater. The
5 civil penalty shall be imposed in the manner provided by ORS 183.745 and shall be deposited
6 in the State Highway Fund.

7 (3) For the purposes of enforcement of this section, members of the Oregon State Police,
8 motor carrier enforcement officers and weighmasters may inspect, collect, analyze and se-
9 cure samples of diesel fuel used in the operation of a motor vehicle on the public highways
10 of this state to detect the presence of dye or other chemical compounds.

11 (4) The department shall develop and implement procedures for inspection, collection,
12 analysis and storage of diesel fuel samples collected under subsection (3) of this section.

13 **SECTION 8.** (1) Diesel fuel that is dyed satisfies the dyeing requirements of sections 1
14 to 40 of this 2005 Act if the fuel meets the dyeing requirements of the Internal Revenue
15 Service, including but not limited to requirements of type, dosage and timing.

16 (2) Notice is required with respect to use of dyed diesel fuel. The notice requirement of
17 this subsection is satisfied if the notice meets notice requirements of regulations published
18 by the Internal Revenue Service.

19 **SECTION 9.** A diesel fuel supplier is entitled to a credit of the tax paid to the Department
20 of Transportation on sales of diesel fuel for which the supplier received less than full con-
21 sideration from or on behalf of the purchaser. The amount of consideration received shall
22 be apportioned between the charges for the fuel and the tax for the fuel. The amount of the
23 tax credit may not exceed the amount of tax imposed under section 2 of this 2005 Act on such
24 sales. If the supplier has taken a credit under this section, any amounts collected for appli-
25 cation against the accounts on which the credit is based shall be apportioned between the
26 charges for the fuel and the corresponding tax for the fuel and shall be reported on a sub-
27 sequent return filed after such collection, and the amount of credit received by the supplier
28 based upon the collected amount shall be returned to the department. If the credit has not
29 been taken, the amount of the credit due to the supplier shall be adjusted by the department
30 to reflect the decrease in the amount on which the claim is based.

31 **SECTION 10.** A diesel fuel distributor, diesel fuel importer or diesel fuel blender, under
32 rules adopted by the Department of Transportation, is entitled to a refund of the tax paid
33 on the sales of diesel fuel for which less than full consideration has been received from or
34 on behalf of the purchaser and that have been declared to be worthless accounts receivable.
35 The amount of consideration received shall be apportioned between the charges for the fuel
36 and the tax for the fuel. The amount of the tax refunded must not exceed the amount of tax
37 paid under sections 1 to 40 of this 2005 Act by the distributor, importer or blender. If the
38 distributor, importer or blender subsequently collects any amount for the account declared
39 worthless, the amount collected shall be apportioned between the charges for the fuel and
40 the corresponding tax for the fuel. The diesel fuel tax collected must be returned to the de-
41 partment.

42 **SECTION 11.** (1) Unless a person holds a valid license issued by the Department of
43 Transportation, the person may not engage in this state in the business of:

- 44 (a) Diesel fuel supplier;
- 45 (b) Diesel fuel distributor;

- 1 (c) Diesel fuel exporter;
- 2 (d) Diesel fuel importer;
- 3 (e) Diesel fuel blender;
- 4 (f) Dyed diesel fuel user; or
- 5 (g) International fuel tax agreement licensee.

6 (2) A person engaged in more than one kind of activity described in subsection (1) of this
 7 section for which a license is required must have a separate license for each activity, but a
 8 diesel fuel supplier is not required to obtain a separate license for any other activity for
 9 which a license is required.

10 (3) Diesel fuel users operating motor vehicles that have a combined weight of 26,000
 11 pounds or less are not required to be licensed. Diesel fuel users operating motor vehicles in
 12 interstate commerce that have two axles and a combined weight exceeding 26,000 pounds, or
 13 that have three or more axles regardless of weight, and diesel fuel users operating a combi-
 14 nation of vehicles that has a combined weight exceeding 26,000 pounds, must comply with the
 15 licensing and reporting requirements of sections 1 to 40 of this 2005 Act. A copy of the li-
 16 cense must be carried in each motor vehicle entering this state. As used in this subsection,
 17 “combined weight” has the meaning given that term in ORS 825.005.

18 **SECTION 12.** (1) An out-of-state diesel fuel user who is not registered under the Inter-
 19 national Fuel Tax Agreement and who operates a motor vehicle in this state for commercial
 20 purposes shall apply to the Department of Transportation for a trip permit that shall be valid
 21 for a period of three consecutive days beginning and ending on the dates specified on the face
 22 of the issued permit. The permit is valid only for the motor vehicle for which it is issued and
 23 when the permit fee has been paid.

24 (2) Every trip permit shall identify the motor vehicle for which it is issued, be completed
 25 in its entirety and be signed and dated by the operator of the motor vehicle before operation
 26 of the motor vehicle on the public highways of this state. Alteration or correction of data
 27 on the permit such as dates, vehicle license number or vehicle identification number invali-
 28 dates the permit.

29 (3) For each trip permit issued, the department shall collect a filing fee of \$1, an admin-
 30 istrative fee of \$10 and an excise tax of \$15. The fees and tax shall be in lieu of the diesel fuel
 31 tax otherwise assessable against the permit holder for importing and using diesel fuel in a
 32 motor vehicle on the public highways of this state and no report of mileage shall be required
 33 for that motor vehicle. The department may not issue a permit if:

- 34 (a) The applicant has outstanding fuel taxes, penalties or interest owing to this state;
- 35 (b) The applicant has had a diesel fuel license revoked for cause and the cause has not
 36 been removed; or
- 37 (c) The applicant is a licensee under an international fuel tax agreement authorized by
 38 ORS 825.555.

39 (4) Blank trip permits may be obtained from the department or agents appointed by the
 40 department. Agents appointed by the department may retain the filing fee collected for each
 41 trip permit to defray expenses incurred in handling and selling the permits.

42 (5) Fees and excise taxes collected by the department for trip permits shall be credited
 43 and deposited in the same manner as the diesel fuel taxes collected under sections 1 to 40
 44 of this 2005 Act and may not be subject to exchange, refund or credit.

45 (6) Notwithstanding subsection (3) of this section, the department may by rule set the

1 filing fee for trip permits that are sold by agents.

2 **SECTION 13.** (1) An applicant for a license issued under section 15 of this 2005 Act shall
 3 apply to the Department of Transportation on a form prepared and furnished by the depart-
 4 ment. The form shall contain any information that the department deems necessary.

5 (2) Every application for a diesel fuel license, other than an application for a dyed diesel
 6 fuel user license or an international fuel tax agreement license, must contain the following
 7 information to the extent it applies to the applicant:

8 (a) Satisfactory proof of the applicant's identity, including but not limited to either:

9 (A) Proof of registration with the Internal Revenue Service under the provisions of sec-
 10 tion 4101 of the Internal Revenue Code; or

11 (B) The applicant's fingerprints or those of the officers, directors, partners or other
 12 principals in the business entity making the application;

13 (b) The applicant's form and place of business, including proof that the individual or
 14 business entity is licensed to do business in this state;

15 (c) The qualifications and business history of the applicant and any officer, director,
 16 partner or other principal thereof;

17 (d) The applicant's financial condition or history, including a bank reference and whether
 18 the applicant or any officer, director, partner or other principal has ever been declared
 19 bankrupt or has an unsatisfied judgment in a federal or state court; and

20 (e) Whether the applicant or any officer, director, partner or other principal has, within
 21 the preceding 10 years, been found guilty of a crime that directly relates to the business for
 22 which the license is sought or has, within the preceding five years, suffered a judgment in
 23 a civil action involving fraud, misrepresentation, conversion or dishonesty.

24 (3) An applicant for a license as a diesel fuel importer shall list on the application each
 25 state, province or country from which the applicant intends to import fuel and, if required
 26 by the state, province or country listed, must be licensed or registered for diesel fuel tax
 27 purposes in that state, province or country.

28 (4) An applicant for a license as a diesel fuel exporter shall list on the application each
 29 state, province or country to which the exporter intends to export diesel fuel received in this
 30 state by means of a transfer outside the bulk transfer-terminal system and, if required by
 31 the state, province or country listed, must be licensed or registered for diesel fuel tax pur-
 32 poses in that state, province or country.

33 (5) An applicant for a license as a diesel fuel supplier shall have a certificate of registry
 34 issued under the Internal Revenue Code that authorizes the applicant to enter into federal
 35 tax-free transactions on diesel fuel in the bulk transfer-terminal system.

36 (6) An application for an international fuel tax agreement license shall be made to the
 37 department in the manner provided in an international fuel tax agreement entered into un-
 38 der ORS 825.555, or as provided by rule by the department.

39 (7) After receipt of an application for a license, the Director of Transportation may con-
 40 duct an investigation to determine whether the facts set forth in the application are true.
 41 The director may also request criminal offender information from the Department of State
 42 Police in the manner required by section 79 of this 2005 Act. The results of the background
 43 investigation, including criminal offender information, may be released to authorized De-
 44 partment of Transportation personnel as the director deems necessary. The Department of
 45 Transportation shall charge a license applicant or license holder a fee of \$50 for each back-

1 ground investigation conducted.

2 **SECTION 14.** (1) Except as otherwise provided in subsection (6) of this section, a diesel
 3 fuel license may not be issued to any person or continued in force unless the person has
 4 furnished a bond or an irrevocable letter of credit, in a form that the Department of Trans-
 5 portation may require, to secure the person's compliance with the provisions of sections 1
 6 to 40 of this 2005 Act and the payment of any and all taxes, interest and penalties owed by
 7 the person. The requirement of furnishing a bond or letter of credit may be waived for diesel
 8 fuel distributors who deliver diesel fuel only into the fuel tanks of marine vessels, for dyed
 9 diesel fuel users and for persons issued a license under an international fuel tax agreement.

10 (2) The total amount of the bond or letter of credit required of any licensee shall be fixed
 11 by the department and may be increased or reduced by the department at any time subject
 12 to the limitations provided in this section. The total amount of the bond or letter of credit
 13 required of any licensee shall be equivalent to twice the estimated monthly license tax, de-
 14 termined in the manner the department deems proper. However, except as provided in sub-
 15 section (3) of this section, the total amount of the bond or letter of credit required of any
 16 licensee may not be less than \$1,000 nor more than \$100,000.

17 (3) The total amount of the bond or letter of credit required of persons described in this
 18 subsection may not be less than \$1,000 nor more than \$250,000. This subsection applies to the
 19 following:

20 (a) A person who first applies for a license.

21 (b) A person who for the last three years has not faithfully performed, as determined by
 22 the department, the requirements of sections 1 to 40 of this 2005 Act, as required by sub-
 23 section (1) of this section. If the department determines that the person has not faithfully
 24 performed the requirements, and that the lack of faithful performance was due to reasonable
 25 cause and was without any intent to avoid payment, the department may waive the additional
 26 bond or letter of credit requirement imposed under this subsection.

27 (4) Any bond or letter of credit given in connection with sections 1 to 40 of this 2005 Act
 28 shall be a continuing instrument and shall cover any and all periods of time including the
 29 first and all subsequent periods for which a license may be granted in consequence of the
 30 giving of the bond or letter of credit. The liability of the surety on the bond or letter of credit
 31 for the aggregate of all claims that arise thereunder may not exceed the amount of the
 32 penalty of the bond or letter of credit. No recoveries on any bond or letter of credit and no
 33 execution of any new bond or letter of credit shall invalidate any bond or letter of credit, but
 34 the total recoveries on any one bond or letter of credit may not exceed the amount of the
 35 bond or letter of credit.

36 (5) A licensee required to obtain a bond or letter of credit under this section may demand
 37 by proper petition a hearing on the necessity of such bond or letter of credit or the reason-
 38 ableness of the amount required. A hearing shall be granted and held within 10 days after
 39 the demand therefor. The decision of the department shall become final 10 days after service
 40 of the order on the licensee.

41 (6) In lieu of the bond or letter of credit required by this section, a person may deposit
 42 with the State Treasurer, under such terms and conditions as the department may prescribe,
 43 a like amount of lawful money of the United States or bonds or other obligations of the
 44 United States, the State of Oregon or any county of this state, of an actual market value
 45 not less than the amount fixed by the department.

1 **SECTION 15.** (1) Upon receipt and approval of an application and a bond or other secu-
 2 rity, if required, the Department of Transportation shall issue a license to the applicant.
 3 However, the department may refuse to issue a license to any person:

4 (a) Who formerly held a license issued under this section or ORS 319.510 to 319.880 that,
 5 prior to the time of filing the application, was revoked for cause;

6 (b) Who has submitted an application as a subterfuge for the real party in interest whose
 7 license, prior to the time of filing the application, was revoked for cause;

8 (c) Who has had a diesel fuel license revoked for cause;

9 (d) Who has an unsatisfied debt to the state assessed under sections 1 to 40 of this 2005
 10 Act;

11 (e) Who formerly held a license issued by the federal government or by this or any other
 12 state that allowed the person to buy or sell untaxed motor vehicle or diesel fuel, and the li-
 13 cense was revoked for cause;

14 (f) Who has pled guilty to or was convicted in this or any other state, or in any federal
 15 jurisdiction, of a felony crime directly related to the applicant's business, or who has been
 16 subject to a civil judgment involving fraud, misrepresentation, conversion or dishonesty;

17 (g) Who has misrepresented or concealed a material fact in obtaining or renewing a li-
 18 cense;

19 (h) Who has violated a statute or administrative rule regulating fuel taxation or distrib-
 20 ution;

21 (i) Who has failed to cooperate with the department's investigations by:

22 (A) Not furnishing papers or documents;

23 (B) Not furnishing in writing a full and complete explanation regarding a matter under
 24 investigation by the department; or

25 (C) Not responding to a subpoena issued by the department, whether or not the recipient
 26 of the subpoena is the subject of the proceeding;

27 (j) Who has failed to comply with an order issued by the Director of Transportation; or

28 (k) Upon other sufficient cause being shown.

29 (2) Before refusing to issue a license, the department shall grant the applicant a hearing
 30 and shall give the applicant at least 20 days' written notice of the time and place of the
 31 hearing.

32 (3) The department shall determine, from the information shown in the application or
 33 other investigation, the type and class of license to be issued. For the purpose of considering
 34 any application for a diesel fuel license, the department may inspect, cause an inspection of,
 35 investigate or cause an investigation of the records of this or any other state or of the fed-
 36 eral government to determine the truthfulness of the information on the application form.

37 (4) All licenses shall be posted in a conspicuous place or kept available for inspection at
 38 the principal place of business of the licensee. Licensees shall reproduce the license by
 39 photostatic or other method and keep a copy on display for ready inspection at each addi-
 40 tional place of business or other place of storage from which diesel fuel is sold, delivered or
 41 used and in each motor vehicle used by the licensee to transport diesel fuel purchased by the
 42 licensee for resale, delivery or use.

43 (5) Each diesel fuel license shall be valid until suspended or revoked for cause or until
 44 otherwise canceled.

45 (6) A diesel fuel license is not transferable.

1 **SECTION 16.** (1) The Department of Transportation may revoke the license of any
 2 licensee for any of the grounds constituting cause for refusal of a license set forth in section
 3 15 of this 2005 Act or for other reasonable cause. Before revoking a license, the department
 4 shall issue a notice to the licensee directing the licensee to show cause within 10 days of the
 5 date of the notice as to why the license should not be revoked. At any time prior to and
 6 pending a hearing, the department may, in the exercise of reasonable discretion, suspend the
 7 license.

8 (2) The department may, upon written request of a licensee or upon surrender of the li-
 9 cense by the licensee, cancel any diesel fuel license. The cancellation shall take effect 30 days
 10 after receipt of the written request or surrender of the license.

11 (3) Any surety on a bond, irrevocable letter of credit or other security furnished by the
 12 licensee as provided in section 14 of this 2005 Act shall be released and discharged from any
 13 and all liability to the state that accrues on the bond, letter of credit or other security after
 14 30 days from the date the surety lodges with the department a written request to be released
 15 and discharged. This provision does not relieve, release or discharge the surety from any li-
 16 ability already accrued or that accrues before the expiration of the 30-day period. The de-
 17 partment shall, upon receiving the request, promptly notify the licensee who furnished the
 18 bond, letter of credit or other security and, unless the licensee files a new bond, irrevocable
 19 letter of credit or other security on or before the expiration of the 30-day period in accord-
 20 ance with this section, shall immediately cancel the license.

21 (4) The department may require a new or additional bond, irrevocable letter of credit or
 22 other security if, in its opinion, the security furnished by the licensee under section 14 of this
 23 2005 Act becomes impaired or inadequate. Upon failure of the licensee to furnish a new or
 24 additional bond, letter of credit or other security within 10 days after being requested to do
 25 so by the department, or if the licensee fails or refuses to file reports and remit or pay taxes
 26 at the intervals fixed by the department, the department shall cancel the license.

27 **SECTION 17.** A diesel fuel licensee who has a change of ownership shall immediately
 28 notify the Department of Transportation of the change. Upon notification, the department
 29 shall immediately cancel the license of the licensee. No license may be issued to any suc-
 30 cessor of the licensee until the successor completes an application and furnishes an adequate
 31 bond, irrevocable letter of credit or other security to the department. For purposes of this
 32 section:

33 (1) In the case of a corporation with more than 100 stockholders, transfer of stock in
 34 normal trading is not considered a change in ownership.

35 (2) In the case of a corporation with 100 or fewer stockholders, transfer of less than 50
 36 percent of the stock in any period of 12 consecutive months is not considered a change in
 37 ownership.

38 **SECTION 18.** (1) Every licensee and every other person importing, manufacturing, refin-
 39 ing, dealing in, transporting, blending or storing diesel fuel in this state shall keep a complete
 40 record of all diesel fuel purchased or received and all diesel fuel sold, delivered or used by
 41 the person. Records shall be kept for a period of not less than five years and shall be open
 42 to inspection by the Department of Transportation or its authorized representatives during
 43 regular business hours. Those records shall show:

44 (a) The date of each receipt of diesel fuel;

45 (b) The name and address of the person from whom the diesel fuel was purchased or re-

1 ceived;

2 (c) The number of gallons received at each place of business or place of storage in the
3 State of Oregon;

4 (d) The date of each sale or delivery;

5 (e) The number of gallons sold, delivered or used for taxable purposes;

6 (f) The number of gallons sold, delivered or used for any purpose not subject to the tax
7 imposed under section 2 of this 2005 Act;

8 (g) The name, address and diesel fuel license number of the purchaser if the diesel fuel
9 tax is not collected on the sale or delivery; and

10 (h) The inventories of diesel fuel on hand at each place of business at the end of each
11 month.

12 (2)(a) All international fuel tax agreement licensees and dyed diesel fuel users authorized
13 to use dyed diesel fuel on the public highways of this state in vehicles licensed for highway
14 operation shall maintain detailed mileage records on an individual vehicle basis. The mileage
15 records shall show both on-highway and off-highway usage of diesel fuel on a daily basis for
16 each vehicle.

17 (b) In the absence of operating records that show both on-highway and off-highway usage
18 of diesel fuel on a daily basis for each vehicle, fuel consumption shall be calculated at the
19 rate of one gallon for every:

20 (A) Four miles traveled by a vehicle with a combined weight of over 40,000 pounds;

21 (B) Seven miles traveled by a vehicle with a combined weight of 12,001 to 40,000 pounds;

22 (C) Ten miles traveled by a vehicle with a combined weight of 6,001 to 12,000 pounds; and

23 (D) Sixteen miles traveled by a vehicle with a combined weight of 6,000 pounds or less.

24 (c) As used in paragraph (b) of this subsection, "combined weight" has the meaning given
25 that term in ORS 825.005.

26 (3) The department may require a person other than a licensee engaged in the business
27 of selling, purchasing, distributing, storing, transporting or delivering diesel fuel to submit
28 periodic reports to the department regarding the disposition of the fuel. The reports must
29 be on forms prescribed by the department and must contain any information the department
30 requires.

31 (4) Every person operating any conveyance for the purpose of hauling, transporting or
32 delivering diesel fuel in bulk shall possess, during the entire time the person is hauling diesel
33 fuel, an invoice, bill of sale or other statement showing the name, address and license num-
34 ber of the seller or consignor, the destination, name and address of the purchaser or con-
35 signee, the license number of the purchaser or consignee, if applicable, and the number of
36 gallons transported. The person hauling diesel fuel shall produce, at the request of any law
37 enforcement officer or authorized representative of the department, the invoice, bill of sale
38 or other statement and shall permit the officer or representative to inspect and gauge the
39 contents of the vehicle.

40 (5) Every person subject to the record-keeping requirements of this section shall retain
41 and make available to the department all source documents in the form of invoices, bills of
42 sale and other documents that clearly support the records as presented to the department
43 pursuant to this section.

44 (6) Every licensee shall keep a true and accurate record on such forms as the department
45 may prescribe of all stocks of diesel fuel on hand. Every licensee shall take a physical in-

1 ventory of all diesel fuel at least once during each calendar month and have the record of
2 such inventory available at all times for inspection by the department. Upon demand by the
3 department, every licensee shall furnish a statement under oath as to the contents of any
4 records required under this subsection.

5 **SECTION 19.** (1) The Department of Transportation, or its duly authorized agents, may
6 examine the accounts, records, stocks, facilities and equipment of diesel fuel licensees,
7 dealers, brokers, service stations and other persons engaged in transporting, storing, selling
8 or distributing diesel fuel or other petroleum products within this state, and make any other
9 investigations that the department considers necessary in carrying out the provisions of
10 sections 1 to 40 of this 2005 Act. If the examinations or investigations disclose that any re-
11 ports of licensees or other persons theretofore filed with the department pursuant to the
12 requirements of sections 1 to 40 of this 2005 Act have shown incorrectly the amount in gal-
13 lons of diesel fuel distributed or the tax, penalty or interest accruing thereon, the depart-
14 ment may make any changes in subsequent reports and payments of such persons, or may
15 make any refunds, that are necessary to correct the errors disclosed by the department's
16 examinations or investigations.

17 (2) The department may not divulge the business affairs, operations or information ob-
18 tained by an investigation of records and equipment of any licensee or other person visited
19 or examined in the discharge of official duty under sections 1 to 40 of this 2005 Act, or the
20 amount or sources of income, profits, losses, expenditures or any particular thereof, set
21 forth or disclosed in any report, or permit any report or copy thereof or any book containing
22 any abstract or particulars thereof to be seen or examined by any person except as provided
23 by law. However, the department may authorize examination of such reports by and the
24 giving of information therein contained to other state officers, or tax officers of another
25 state or the federal government if a reciprocal arrangement exists.

26 (3) In enforcing the provisions of sections 1 to 40 of this 2005 Act, the department or its
27 duly authorized agents may at any time during normal business hours examine the books
28 and accounts of any diesel fuel licensee operating within this state for the purpose of
29 checking shipments or use of diesel fuel, or detecting diversions of diesel fuel or evasion of
30 the tax on diesel fuel.

31 **SECTION 20.** (1) For the purpose of determining the amount of liability for the tax im-
32 posed under section 2 of this 2005 Act and to periodically update license information, each
33 licensee other than a diesel fuel distributor, international fuel tax agreement licensee or dyed
34 diesel fuel user shall file monthly tax reports with the Department of Transportation on
35 forms prescribed by the department.

36 (2) Dyed diesel fuel users whose estimated annual tax liability is \$250 or less shall file
37 reports annually. Dyed diesel fuel users whose estimated annual tax liability is more than
38 \$250 shall file reports quarterly. Diesel fuel users licensed under an international fuel tax
39 agreement shall file reports quarterly.

40 (3) At the time the diesel fuel license is issued, the department shall establish the re-
41 porting frequency for each licensee for which reporting frequency is not determined under
42 subsection (1) or (2) of this section. If it becomes apparent that a licensee is not reporting
43 in accordance with the established schedule, the department shall change the licensee's re-
44 porting frequency by giving 30 days' notice to the licensee by mail to the licensee's address
45 of record. A report shall be filed with the department even though no diesel fuel was used,

1 or no tax is due, for the reporting period.

2 (4) Each tax report shall contain a declaration by the licensee to the effect that the
 3 statements contained therein are true and are made under penalty of perjury. The report
 4 shall contain information that the department finds necessary for the proper administration
 5 and enforcement of the provisions of sections 1 to 40 of this 2005 Act.

6 (5) A licensee shall file a tax report on or before the last day of the next succeeding
 7 calendar month following the period to which the report relates.

8 (6) Subject to the written approval of the department, tax reports may cover a period
 9 ending on a day other than the last day of the calendar month. Licensees granted approval
 10 to file reports in this manner shall file the reports on or before the 25th day following the
 11 end of the reporting period. No change to this reporting period shall be made without the
 12 written authorization of the department.

13 (7) If the final filing date falls on a Saturday, Sunday or legal holiday, the next business
 14 day thereafter shall be the final filing date. Tax reports shall be considered filed or received
 15 on the date shown by the post office cancellation mark stamped upon the envelope containing
 16 the report properly addressed to the department, or on the date the report was mailed, if
 17 proof satisfactory to the department is available to establish the mailing date. Envelopes
 18 received within five business days of the final filing date shall be accepted as timely filed if
 19 the post office cancellation mark is not present or is not legible. Envelopes received after
 20 the fifth business day after the final filing date shall be deemed to have not been timely filed
 21 if the post office cancellation mark is not present or is not legible.

22 (8) The department, if it deems it necessary in order to ensure payment of the tax im-
 23 posed under section 2 of this 2005 Act or to facilitate the administration of sections 1 to 40
 24 of this 2005 Act, may require the filing of reports and tax remittances at intervals of less
 25 than one month if, in its opinion, an existing bond, irrevocable letter of credit or other se-
 26 curity has become impaired or inadequate.

27 (9) The signed report filed with the department as required by this section is a public
 28 record. All other documents, including supporting schedules and information received from
 29 other taxing jurisdictions and entities, shall be kept confidential and exempt from public
 30 disclosure except that the information may be shared with tax collecting entities in other
 31 jurisdictions if the receiving jurisdiction agrees to keep the information confidential.

32 (10) Notwithstanding subsection (9) of this section, the department shall disclose to the
 33 Legislative Revenue Officer or an authorized representative of the Legislative Revenue Offi-
 34 cer the information described in this section if the request for the information is made in
 35 writing, specifies the purposes for which the request is made or information is required and
 36 is signed by the Legislative Revenue Officer or an authorized representative. Information
 37 that is confidential under subsection (9) of this section shall be kept confidential by the
 38 Legislative Revenue Officer or the representative of the Legislative Revenue Officer.

39 **SECTION 21.** (1) The tax imposed under section 2 of this 2005 Act shall be computed by
 40 multiplying the tax rate per gallon provided in section 2 of this 2005 Act by the number of
 41 gallons of diesel fuel subject to the diesel fuel tax. The tax shall be paid to the state by diesel
 42 fuel suppliers, who shall collect the tax from diesel fuel distributors.

43 (2) Each supplier may retain an amount equal to two percent of the amount of tax col-
 44 lected by the supplier as a fee for making the collection. The fee shall be distributed as fol-
 45 lows:

1 (a) One-half shall be retained by the supplier.

2 (b) One-half shall be passed to the distributor. If the diesel fuel is resold by the distrib-
 3 utor to another distributor, the selling distributor shall pass on one-half of its one-half to
 4 the buying distributor.

5 (3) At the election of the distributor, the payment of the diesel fuel tax owed on diesel
 6 fuel purchased from a supplier shall be remitted to the supplier on terms agreed to by the
 7 distributor and the supplier no later than the 22nd day of the month next succeeding the
 8 month the liability for the tax is incurred by the supplier. This election shall be subject to
 9 a condition that the distributor's remittances of all amounts of diesel fuel tax due to the
 10 supplier shall be paid by electronic funds transfer. The distributor's election may be termi-
 11 nated by the supplier if the distributor does not make timely payments to the supplier as
 12 required by this section. This subsection does not apply if the distributor is required by the
 13 supplier to pay cash or a cash equivalent for diesel fuel purchases.

14 (4) The tax owed to the state is due on the date a report is required to be filed under
 15 section 20 of this 2005 Act.

16 **SECTION 22.** (1) A diesel fuel supplier shall notify, no later than the 20th day or the next
 17 business day following the 20th day after the diesel fuel tax is due from the diesel fuel dis-
 18 tributor under section 21 of this 2005 Act, the Department of Transportation of the failure
 19 of a diesel fuel distributor to pay the full amount of the tax owed.

20 (2) Upon notification and submission of satisfactory evidence by a supplier that a dis-
 21 tributor has failed to comply with section 21 of this 2005 Act, the department may suspend
 22 the license of the distributor. The unpaid tax liability due from the distributor shall be im-
 23 mediately due and payable to the department.

24 (3) Upon the suspension of the license, the department shall immediately notify all sup-
 25 pliers that the authority of the distributor to purchase tax-deferred diesel fuel has been
 26 suspended and that tax must be paid by the distributor on all subsequent purchases of diesel
 27 fuel at the time of removal.

28 (4) If, after notification by the department, a supplier continues to sell tax-deferred diesel
 29 fuel to a distributor whose license is suspended, the supplier's license is subject to revocation
 30 or suspension under this section or section 16 of this 2005 Act. If notified of a license sus-
 31 pension, a supplier is liable for any unpaid diesel fuel tax owed on diesel fuel sold to a dis-
 32 tributor whose license has been suspended.

33 **SECTION 23.** (1) Except as provided in subsection (3) of this section, if any supplier or
 34 other diesel fuel licensee with tax due under sections 1 to 40 of this 2005 Act is delinquent
 35 in remitting the tax imposed under section 2 of this 2005 Act on the date specified in section
 36 20 or 21 of this 2005 Act, the Department of Transportation shall assess a penalty of 10 per-
 37 cent of the tax unpaid by the due date.

38 (2) If a report required by section 20 of this 2005 Act is not received on or before the due
 39 date of the report, the department shall assess a penalty of 10 percent of the tax unpaid by
 40 the due date, or, if the department determines that no tax is due, the department shall as-
 41 sess a penalty of \$50.

42 (3) If the department determines that the delinquency was due to reasonable cause and
 43 without any intent to avoid payment, the penalties provided in subsections (1) and (2) of this
 44 section may be waived.

45 (4)(a) If any licensee sells, distributes or uses any diesel fuel without first furnishing the

1 bond, irrevocable letter of credit or other security required by section 14 of this 2005 Act or
2 obtaining the license required by section 11 of this 2005 Act, the tax imposed under section
3 2 of this 2005 Act shall immediately be due and payable on account of all diesel fuel so sold,
4 distributed or used.

5 (b) Except as otherwise provided in this paragraph, the department shall proceed forth-
6 with to determine, from the best available sources, the amount of tax due under paragraph
7 (a) of this subsection and shall immediately assess the tax and interest in the amount found
8 due, together with a penalty of 100 percent of the tax, and shall make its certificate of such
9 assessment and penalty. The department may waive all or part of a penalty imposed under
10 this paragraph if the department determines that a violation of the requirement to furnish
11 the security or to obtain the license was due to reasonable cause. In any suit or proceeding
12 to collect such tax, interest or penalty, the certificate is prima facie evidence that the
13 licensee therein named is indebted to the State of Oregon in the amount of the tax, interest
14 and penalty therein stated.

15 (5)(a) If the tax imposed under section 2 of this 2005 Act is not paid as required by
16 sections 1 to 40 of this 2005 Act, interest shall be charged at the rate of 0.0329 percent per
17 day until the tax and interest have been paid in full.

18 (b) If the tax imposed under section 2 of this 2005 Act is overpaid, the department may
19 credit interest to the account of the taxpayer in the amount of 0.0329 percent per day up to
20 a maximum amount that equals any interest assessed against the taxpayer under paragraph
21 (a) of this subsection in any given audit period.

22 **SECTION 24.** (1) Any person who violates any of the provisions of sections 1 to 40 of this
23 2005 Act, any person who makes any false statement in any statement required by sections
24 1 to 40 of this 2005 Act for the refund of any moneys or taxes as provided in sections 1 to
25 40 of this 2005 Act and any person who collects or causes any tax to be repaid to the person
26 or to any other person without being entitled to that tax under the provisions of sections 1
27 to 40 of this 2005 Act, shall, upon conviction, be punished by a fine of not more than \$1,000,
28 or by imprisonment in the county jail for not more than six months, or both.

29 (2) Knowingly and willfully failing to report and pay a tax liability to the Department of
30 Transportation as required by sections 20 and 21 of this 2005 Act is theft of public money and,
31 upon conviction, is punishable as provided in ORS 164.043 to 164.057.

32 (3)(a) A person may not, through false statement, trick, device or otherwise, obtain diesel
33 fuel for export upon which the tax imposed by section 2 of this 2005 Act has not been paid
34 and fail to export the diesel fuel or any portion thereof, or cause the diesel fuel or any por-
35 tion thereof not to be exported, nor divert the diesel fuel or any portion thereof, or cause
36 the diesel fuel to be diverted from interstate or foreign transit begun in this state, nor un-
37 lawfully return the diesel fuel or any portion thereof to be used or sold in this state and fail
38 to notify the department and the licensee from whom the diesel fuel was originally purchased
39 of the person's act. A licensee or other person may not conspire with any person to withhold
40 from export, divert from interstate or foreign transit begun in this state or return diesel fuel
41 to this state for sale or use for the purpose of avoiding any of the taxes imposed by section
42 2 of this 2005 Act.

43 (b) Violation of paragraph (a) of this subsection is punishable, upon conviction, by a fine
44 of not more than \$5,000, or by imprisonment in the county jail for not more than six months,
45 or both.

1 (4) Justice courts have concurrent jurisdiction with circuit courts over all violations
2 under the provisions of sections 1 to 40 of this 2005 Act.

3 **SECTION 25.** The remedies of the state provided in sections 1 to 40 of this 2005 Act are
4 cumulative. No action taken pursuant to sections 1 to 40 of this 2005 Act relieves any person
5 from the criminal penalty provisions of section 24 of this 2005 Act.

6 **SECTION 26.** The tax and any penalty imposed upon a licensee under sections 1 to 40 of
7 this 2005 Act constitute a lien in favor of the State of Oregon upon all franchises, property
8 and rights to property, whether real or personal, then belonging to or thereafter acquired
9 by the licensee, whether such property is employed by the licensee for personal or business
10 use or is in the hands of a trustee, receiver or assignee for the benefit of creditors, from the
11 date the tax was due and payable until the amount of the lien is paid or the property is sold
12 in payment of the lien. The lien is paramount to all private liens or encumbrances of what-
13 ever character upon the property except that such lien is not valid against any bona fide
14 mortgagee, pledgee, judgment creditor or purchaser whose rights have attached prior to the
15 time the Department of Transportation has filed and recorded notice of the lien.

16 **SECTION 27.** If a licensee is delinquent in the payment of any obligation imposed under
17 sections 1 to 40 of this 2005 Act, the Department of Transportation may give notice of the
18 amount of such delinquency by registered or certified mail to all persons having in their
19 possession or under their control any credits or other personal property belonging to the
20 licensee, or owing any debts to such licensee, at the time of the receipt by those persons of
21 the notice. Thereafter, any person so notified may neither transfer nor make other disposi-
22 tion of such credits, personal property or debts until the department has consented to a
23 transfer or other disposition or until 30 days have elapsed from and after the receipt of the
24 notice. All persons so notified shall, within five days after the receipt of the notice, advise
25 the department of all such credits, personal property or debts in their possession, under
26 their control or owing by them, as the case may be.

27 **SECTION 28.** (1) If a licensee is delinquent in the payment of any obligation imposed
28 under sections 1 to 40 of this 2005 Act, the Department of Transportation may proceed to
29 collect the amount due from the licensee in the manner prescribed in this section.

30 (2) The department shall seize any property subject to the lien provided for in section 26
31 of this 2005 Act and sell the property at public auction to pay such obligation and any and
32 all costs that may have been incurred on account of the seizure and sale.

33 (3) Notice of the intended sale and the time and place of the sale shall be given to the
34 delinquent licensee and to all persons appearing of record to have an interest in the property.
35 The notice shall be given in writing at least 10 days before the date set for the sale by en-
36 closing it in an envelope addressed to the licensee at the address as it appears in the records
37 of the department and, in the case of any person appearing of record to have an interest in
38 the property, addressed to the person at the last-known residence or place of business, and
39 depositing the envelope in the United States mail, postage prepaid. In addition, the notice
40 shall be published at least three times, the first of which shall be not less than 10 days before
41 the date set for the sale, in a newspaper of general circulation published in the county in
42 which the property seized is to be sold. If there is no newspaper of general circulation in the
43 county, the notice shall be posted in three public places in the county for a period of 10 days.

44 (4) The notice shall contain a description of the property to be sold, together with a
45 statement of the amount due under sections 1 to 40 of this 2005 Act, the name of the licensee

1 and the further statement that, unless such amount is paid before the time fixed in the no-
 2 tice, the property will be sold in accordance with the law and the notice.

3 (5) The department shall then proceed to sell the property in accordance with the law
 4 and the notice and shall deliver to the purchaser a bill of sale that vests title in the pur-
 5 chaser. If upon the sale the moneys received exceed the amount due to the state under
 6 sections 1 to 40 of this 2005 Act from the delinquent licensee, the excess shall be returned
 7 to the licensee and a receipt obtained therefor. If any person having an interest in or lien
 8 upon the property has filed with the department notice of such interest or lien prior to the
 9 sale, the department shall withhold payment of any such excess to the licensee pending a
 10 determination of the rights of the respective parties to the property by a court of competent
 11 jurisdiction. If for any reason the receipt of the licensee is not available, the department
 12 shall deposit the excess with the State Treasurer as trustee for the licensee, the heirs, suc-
 13 cessors or assigns of the licensee.

14 **SECTION 29.** (1) Whenever any licensee is delinquent in the payment of any obligation
 15 under sections 1 to 40 of this 2005 Act, the Department of Transportation may transmit no-
 16 tice of the delinquency to the Attorney General, who shall at once proceed to collect the tax
 17 and penalty due by appropriate legal action.

18 (2) In any suit brought to enforce the rights of the state under sections 1 to 40 of this
 19 2005 Act, a certificate by the department showing the delinquency is prima facie evidence of
 20 the amount of the obligation, of the delinquency thereof and of compliance by the department
 21 with all provisions of sections 1 to 40 of this 2005 Act relating to the obligation.

22 **SECTION 30.** (1) If the Department of Transportation is not satisfied that a report filed
 23 is correct or the amount of tax or penalty paid to the state by a licensee is correct, the de-
 24 partment may assess the tax and penalty due based upon any information available to the
 25 department.

26 (2) If a licensee fails to account satisfactorily for any diesel fuel sold or disposed of, it
 27 shall be presumed that the diesel fuel not accounted for was diverted to a use subject to the
 28 tax imposed under section 2 of this 2005 Act without taxes being paid in accordance with the
 29 requirements of sections 1 to 40 of this 2005 Act.

30 (3) The department shall give to the licensee written notice of the assessment. The notice
 31 may be served personally or by mail. If made by mail, service shall be made by depositing
 32 the notice in the United States mail, postage prepaid, addressed to the licensee at the ad-
 33 dress as it appears in the records of the department.

34 **SECTION 31.** (1) If a licensee fails to make a report required by section 20 of this 2005
 35 Act, the Department of Transportation shall make an estimate, based upon any information
 36 available to the department, for the month or months with respect to which the licensee
 37 failed to make a report, and assess the tax and penalty due from the licensee under sections
 38 1 to 40 of this 2005 Act.

39 (2) The department shall give to the licensee written notice of the assessment in the
 40 manner prescribed by section 30 (3) of this 2005 Act.

41 **SECTION 32.** (1) Any licensee against whom an assessment is made under section 30 or
 42 31 of this 2005 Act may petition the Department of Transportation for a reassessment within
 43 30 days after service of notice of the assessment. If a petition is not filed within the 30-day
 44 period, the amount of the assessment becomes conclusive.

45 (2) If a petition for reassessment is filed within the 30-day period, the department shall

1 reconsider the assessment and, if requested in the petition, shall grant the licensee an oral
 2 hearing and give the licensee 10 days' written notice of the time and place of the hearing.
 3 The department may continue the hearing from time to time. The department shall serve
 4 on the petitioner notice of its finding upon reassessment. If the finding is that a tax or
 5 penalty is delinquent, the petitioner shall pay to the department, within 30 days after notice
 6 is served, all of the tax or penalty found to be delinquent.

7 (3) Notice required by this section shall be served in the manner prescribed by section
 8 30 (3) of this 2005 Act.

9 **SECTION 33.** Any person aggrieved by a finding, order or determination by the Depart-
 10 ment of Transportation under section 16 or 32 of this 2005 Act may appeal therefrom to the
 11 circuit court of the county in which the person resides. The appeal shall be taken within 60
 12 days from the date of the entry or making of such order, finding or determination and in the
 13 manner provided by law for appeals in actions at law.

14 **SECTION 34.** Except in the case of an alleged fraudulent report, or neglect or refusal to
 15 make a report, no notice of assessment shall be served on a licensee after three years have
 16 expired since the alleged erroneous report was filed or a report should have been filed.

17 **SECTION 35.** (1) If the Department of Transportation determines that any amount of tax
 18 or penalty has been paid more than once or has been erroneously or illegally collected, the
 19 department shall credit such amount against any amounts then due from the licensee under
 20 sections 1 to 40 of this 2005 Act and shall refund any balance to the licensee or to the suc-
 21 cessor, administrator or executor of the licensee.

22 (2) A licensee may claim a credit or refund for any amount of tax or penalty that the
 23 licensee has paid more than once, or that has been paid or collected erroneously or illegally.
 24 The Department of Transportation may not allow a claim for a credit or refund unless the
 25 claim is filed with the department within three years from the date of the payment or col-
 26 lection or, with respect to an assessment made under section 30 or 31 of this 2005 Act, within
 27 six months after the assessment becomes conclusive, whichever period expires later. Every
 28 claim must be in writing and must state the specific grounds upon which the claim is
 29 founded. Failure to file a claim within the time prescribed in this section constitutes a
 30 waiver of any and all demands against the state for overpayments under sections 1 to 40 of
 31 this 2005 Act. Within 30 days of allowing or disallowing any such claim in whole or in part,
 32 the department shall serve notice of the action on the claimant. The service shall be made
 33 in the manner prescribed by section 30 (3) of this 2005 Act.

34 **SECTION 36.** (1) If a user obtains diesel fuel for use in a motor vehicle in this state and
 35 pays the diesel fuel tax on the fuel obtained and does not present a claim for a refund under
 36 subsection (2) of this section, the user may apply for a refund of that part of the tax paid
 37 that is applicable to use of the diesel fuel to propel a motor vehicle:

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

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

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

1 thoroughfare or property, with or by:

2 (A) An agency of the United States;

3 (B) The State Board of Forestry;

4 (C) The State Forester; or

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

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

9 (e) By an agency of the United States or by any city, transportation district, mass
10 transportation district or metropolitan service district of this state; or

11 (f) When used exclusively in the improvement, construction and maintenance of public
12 highways by any county of this state or by any road assessment district formed under ORS
13 371.405 to 371.535.

14 (2) The department shall allow refunds as provided in this subsection to a licensee or user
15 presenting a claim who does not apply for a refund under subsection (1) of this section. Re-
16 funds shall be given under this subsection as follows:

17 (a) For diesel fuel used in operating a power take-off unit on a concrete mixer, self-
18 loading log truck, garbage truck or recycling truck, where there is no separate fuel supply
19 tank for the power take-off unit, a claimant shall be allowed a refund of 45 percent of the
20 tax paid. The department may establish by rule additional formulas for determining diesel
21 fuel usage when operating other types of equipment by means of power take-off units when
22 direct measurement of the diesel fuel used is not feasible.

23 (b) For diesel fuel used in a motor vehicle designed to carry logs, poles, pilings, sand or
24 gravel, a claimant shall be allowed a refund of up to 25 percent of the tax paid on all diesel
25 fuel used by the claimant in this state, provided that the claimant shows evidence of the total
26 number of gallons of diesel fuel used in this state on the highways and of the total number
27 of gallons used in this state off the highways. However, log trucks may claim a refund of up
28 to 15 percent of the tax paid without providing evidence of the total number of gallons of
29 diesel fuel used in this state on the highways and of the total number of gallons used in this
30 state off the highways.

31 (c) For diesel fuel used in operating a motor vehicle exclusively owned and operated by
32 an investor-owned utility, a claimant shall be allowed a refund of 70 percent of the tax paid.

33 (d) For diesel fuel where there is a separate fuel supply dedicated to the operation of
34 ancillary equipment and not used to propel the motor vehicle, a claimant shall be allowed a
35 refund of 100 percent of the tax paid.

36 (3) An application for a refund under subsection (1) or (2) of this section shall be filed
37 with the department within 15 months after the payment of diesel fuel tax for which a refund
38 is claimed.

39 (4) The application for a refund provided by subsection (1) or (2) of this section shall in-
40 clude a signed statement by the applicant indicating the amount of diesel fuel for which a
41 refund is claimed and the manner in which the diesel fuel was used that qualifies the appli-
42 cant for a refund. If the diesel fuel upon which the refund is claimed was obtained from a
43 seller to whom the diesel fuel tax was paid, the application shall be supported by the invoices
44 that cover the purchase of the diesel fuel. If the applicant paid the diesel fuel tax directly
45 to the department, the applicant shall indicate the source of the diesel fuel and the date the

1 fuel was obtained.

2 (5) The department may require any person who applies for a refund provided by sub-
 3 section (1) or (2) of this section to furnish a statement, under oath, giving the person's oc-
 4 cupation, a description of the machines or equipment in which the diesel fuel was used, the
 5 place where the diesel fuel was used and any other information the department may require.

6 **SECTION 37.** The Department of Transportation may investigate refund applications
 7 submitted under section 36 of this 2005 Act and gather and compile any information in regard
 8 to the applications that the department considers necessary to safeguard the state and pre-
 9 vent fraudulent practices in connection with tax refunds and tax evasions. The department
 10 may, in order to establish the validity of an application, examine the books and records of
 11 the applicant for such purposes. Failure of the applicant to accede to the demand for exam-
 12 ination constitutes a waiver of all rights to a refund for the transaction questioned.

13 **SECTION 38.** The Department of Transportation may enter into agreements with the
 14 governing body of any Indian tribe residing on a reservation in Oregon to provide refunds to
 15 the tribe of state diesel fuel taxes for diesel fuel purchased on the reservation and used by
 16 tribal members on tribal reservation lands that are not state highways, county roads or city
 17 streets supported by the State Highway Fund.

18 **SECTION 39.** The ultimate liability for the tax imposed under section 2 of this 2005 Act
 19 is upon the user, regardless of the manner in which collection of the tax is provided for in
 20 sections 1 to 40 of this 2005 Act.

21 **SECTION 40.** (1) The Department of Transportation may adopt any rules the department
 22 considers necessary to implement and enforce the provisions of sections 1 to 40 of this 2005
 23 Act.

24 (2) The department may enter into a fuel tax cooperative agreement with another state
 25 or a Canadian province for the administration, collection and enforcement of each state's or
 26 province's diesel fuel taxes.

27 **SECTION 41.** ORS 319.520 is amended to read:

28 319.520. As used in ORS 319.510 to 319.880, unless the context clearly indicates a different
 29 meaning:

30 (1) "Combined weight" means the total empty weight of all vehicles in a combination plus the
 31 total weight of the load carried on that combination of vehicles.

32 (2) "Delinquent" means having failed to pay a tax or penalty within the time provided by law.

33 (3) "Department" means the Department of Transportation.

34 (4) "Fuel" means any combustible gas, liquid or material of a kind used for the generation of
 35 power to propel a motor vehicle on the highways except motor vehicle fuel as defined in ORS
 36 319.010 and diesel fuel.

37 (5) "Highway" means every way, thoroughfare and place, of whatever nature, open to the use
 38 of the public for the purpose of vehicular travel.

39 (6) "Light weight" means the weight of a vehicle when fully equipped for moving over the
 40 highway.

41 (7) "Motor vehicle" means every self-propelled vehicle operated on the highway, except an im-
 42 plement of husbandry used in agricultural operations and only incidentally operated or moved upon
 43 the highway.

44 (8) "Person" means any individual, firm, copartnership, joint venture, association, corporation,
 45 trust, receiver or any group or combination acting as a unit.

1 (9) "Seller" means:

2 (a) A person that sells fuel to a user; or

3 (b) If the fuel is dispensed at a nonretail facility as defined in ORS 480.310, the person that owns
4 the user's accounts and bills the user for fuel purchased at a nonretail facility.

5 (10) "To sell fuel for use in a motor vehicle" means to dispense or place fuel for a price into a
6 receptacle on a motor vehicle, from which receptacle the fuel is supplied to propel the motor vehi-
7 cle.

8 (11) "To use fuel in a motor vehicle" means to receive into any receptacle on a motor vehicle,
9 fuel to be consumed in propelling the motor vehicle on the highways of this state; and, if the fuel
10 is received into the receptacle outside the taxing jurisdiction of the state, "to use fuel in a motor
11 vehicle" means to consume in propelling the motor vehicle on the highways of this state.

12 **SECTION 42.** ORS 319.690 is amended to read:

13 319.690. (1) Except as provided in subsection (2) of this section and ORS 319.692, each user of
14 fuel in a motor vehicle required to be licensed under ORS 319.550 shall, on or before the 20th day
15 of each month, file with the Department of Transportation a report showing the amount of fuel used
16 during the immediately preceding calendar month by the user and such other information as the
17 department may require for the purposes of ORS 319.510 to 319.880. The reports shall be in the form
18 prescribed by the department. Each report shall be accompanied by a remittance payable to the
19 department for the amount of all the tax shown by the report to be due and payable. Any tax paid
20 to a seller is a credit against the amount of tax otherwise due and payable to the state under ORS
21 319.510 to 319.880 [or 825.474, 825.476 and 825.480]. Also, when filing a monthly tax report, a user
22 may, in lieu of claiming a refund, take a deduction or credit for the tax on any fuel which would
23 otherwise be subject to refund under ORS 319.831 (1).

24 (2) Each user of fuel in a motor vehicle with a light weight of less than 8,000 pounds required
25 to be licensed under ORS 319.550 may file an annual report of all fuel used upon Oregon highways.
26 The report for each calendar year shall be filed on or before March 1 of the year following and shall
27 be accompanied by a remittance payable to the department of all the tax shown to be due and
28 payable on the amount of fuel used.

29 **SECTION 43.** ORS 366.507 is amended to read:

30 366.507. The Department of Transportation shall use an amount equal to the amount of moneys
31 in the State Highway Fund that becomes available for its use from the increase in tax rates created
32 by the amendments to ORS 319.020[,] and 319.530[, 825.476 and 825.480] by sections [1, 2 and 10 to
33 15] **1, 2, 12 and 13**, chapter 209, Oregon Laws 1985, **an amount from the tax imposed under**
34 **section 2 of this 2005 Act that is equal to the amount that became available to the depart-**
35 **ment from the increase in tax rates created by the amendments to ORS 825.476 and 825.480**
36 **by sections 10, 11, 14 and 15, chapter 209, Oregon Laws 1985, [and] an amount equal to one-third**
37 **of the amount of moneys in the State Highway Fund that becomes available for its use from any**
38 **increase in tax rates created by the amendments to ORS 319.020[,] and 319.530[, 825.476 and**
39 **825.480] by sections [5, 6 and 8 to 15] **8, 9, 10, 11, 14 and 15**, chapter 899, Oregon Laws 1987, **an****
40 **amount from the tax imposed under section 2 of this 2005 Act that is equal to one-third of**
41 **the amount that became available to the department from the increase in tax rates created**
42 **by the amendments to ORS 825.476 and 825.480 by sections 5, 6, 12 and 13, chapter 899,**
43 **Oregon Laws 1987, and one-third of the amount that results from any increase in tax rates that**
44 **results from the provisions of sections 16 and 17, chapter 899, Oregon Laws 1987, to establish and**
45 **operate a state modernization program for highways. The program established under this section and**

1 the use of moneys in the program are subject to the following:

2 (1) The moneys may be used by the department to retire bonds that the department issues for
3 the modernization program under bonding authority of the department.

4 (2) The intent of the modernization program is to increase highway safety, to accelerate im-
5 provements from the backlog of needs on the state highways and to fund modernization of highways
6 and local roads to support economic development in Oregon. Projects both on and off the state
7 highway system are eligible.

8 (3) Projects to be implemented by the modernization program shall be selected by the Oregon
9 Transportation Commission. The criteria for selection of projects will be established after public
10 hearings that allow citizens an opportunity to review the criteria. The commission may use up to
11 one-half of moneys available under this section for modernization projects selected by the commis-
12 sion from a list of projects of statewide significance.

13 (4) In developing criteria for selection of projects, the commission shall consider the following:

14 (a) Projects must be of significance to the state highway system.

15 (b) Except for projects that are of statewide significance, projects must be equitably distributed
16 throughout Oregon.

17 (c) Projects may be on county or city arterial roads connecting to or supporting a state highway.

18 (d) Priority may be given to projects that make a meaningful contribution to increased highway
19 safety.

20 (e) Priority may also be given to projects that encourage economic development where:

21 (A) There is commitment by private industry to construct a facility.

22 (B) There is support from other state agencies.

23 (f) Priority may be given where there is local government or private sector financial partic-
24 ipation, or both, in the improvement in addition to improvements adjacent to the project.

25 (g) Priority may be given where there is strong local support.

26 (5) Except as otherwise provided in this subsection, federal moneys or moneys from the State
27 Highway Fund other than those described in this section may be used for the modernization program
28 as long as the total amount used is equal to the amount described in this section. Federal moneys
29 that are appropriated by Congress for specific projects and federal moneys that are allocated by the
30 United States Department of Transportation for specific projects may not be used for the modern-
31 ization program under this section.

32 **SECTION 44.** ORS 366.507, as amended by section 2, chapter 766, Oregon Laws 2001, and sec-
33 tion 15, chapter 618, Oregon Laws 2003, is amended to read:

34 366.507. The Department of Transportation shall use an amount equal to the moneys in the State
35 Highway Fund that become available for its use from the increase in tax rates created by the
36 amendments to ORS 319.020[,] **and** 319.530[, 825.476 and 825.480] by sections [1, 2 and 10 to 15,] **1,**
37 **2, 12 and 13,** chapter 209, Oregon Laws 1985, **an amount from the tax imposed under section 2**
38 **of this 2005 Act that is equal to the amount that became available to the department from**
39 **the increase in tax rates created by the amendments to ORS 825.476 and 825.480 by sections**
40 **10, 11, 14 and 15, chapter 209, Oregon Laws 1985, [and] an amount equal to one-third of the**
41 **moneys in the State Highway Fund that become available for its use from any increase in tax rates**
42 **created by the amendments to ORS 319.020[,] and 319.530[, 825.476 and 825.480 by sections 5, 6 and**
43 **8 to 15,] by sections 8, 9, 10, 11, 14 and 15,** chapter 899, Oregon Laws 1987, **an amount from the**
44 **tax imposed under section 2 of this 2005 Act that is equal to one-third of the amount that**
45 **became available to the department from the increase in tax rates created by the amend-**

1 **ments to ORS 825.476 and 825.480 by sections 5, 6, 12 and 13, chapter 899, Oregon Laws 1987,**
 2 **and one-third of the amount that results** from any increase in tax rates that results from the
 3 provisions of sections 16 and 17, chapter 899, Oregon Laws 1987, exclusively to establish a state
 4 modernization program for highways. The program established under this section and the use of
 5 moneys in the program are subject to the following:

6 (1) The moneys may be used by the department to retire bonds that the department issues for
 7 the modernization program under bonding authority of the department.

8 (2) The intent of the modernization program is to increase highway safety, to accelerate im-
 9 provements from the backlog of needs on the state highways and to fund modernization of highways
 10 and local roads to support economic development in Oregon. Projects both on and off the state
 11 highway system are eligible.

12 (3) Projects to be implemented by the modernization program shall be selected by the Oregon
 13 Transportation Commission. The criteria for selection of projects will be established after public
 14 hearings that allow citizens an opportunity to review the criteria. The commission may use up to
 15 one-half of moneys available under this section for modernization projects selected by the commis-
 16 sion from a list of projects of statewide significance.

17 (4) In developing criteria for selection of projects, the commission shall consider the following:

18 (a) Projects must be of significance to the state highway system.

19 (b) Except for projects that are of statewide significance, projects must be equitably distributed
 20 throughout Oregon.

21 (c) Projects may be on county or city arterial roads connecting to or supporting a state highway.

22 (d) Priority may be given to projects that make a meaningful contribution to increased highway
 23 safety.

24 (e) Priority may also be given to projects that encourage economic development where:

25 (A) There is commitment by private industry to construct a facility.

26 (B) There is support from other state agencies.

27 (f) Priority may be given where there is local government or private sector financial partic-
 28 ipation, or both, in the improvement in addition to improvements adjacent to the project.

29 (g) Priority may be given where there is strong local support.

30 **SECTION 45.** ORS 366.508 is amended to read:

31 366.508. (1) The Legislative Assembly finds that:

32 (a) Estimated highway, road and street revenues from current sources will not adequately meet
 33 the need for continued development of a statewide road and bridge system that is economically ef-
 34 ficient, provides accessibility to and from commercial, agricultural, industrial, tourist and recre-
 35 ational facilities and enhances the highway safety, environmental quality and land use goals of this
 36 state;

37 (b) Responsibility for the cost of the highway, road and street system should be proportional and
 38 should be based on the number and types of vehicles that use the system and on the frequency of
 39 their use; and

40 (c) Expansion, modernization, maintenance, repair, reconstruction, increased capacity and en-
 41 hanced safety on all roads and bridges is crucial to the economic revitalization of Oregon.

42 (2) The Legislative Assembly declares that the purpose of this section and ORS 319.020, 319.530,
 43 366.507, 366.739, 366.774[,] **and 366.790[**, 825.476 and 825.480] **and section 2 of this 2005 Act** is:

44 (a) To enhance the revenue base for the state, counties and cities for continued development and
 45 maintenance of the road and bridge system; and

1 (b) To enhance the revitalization of this state's economy by implementing a long-term plan for
 2 the state, counties and cities that establishes priorities for road and bridge improvements.

3 **SECTION 46.** ORS 366.739 is amended to read:

4 366.739. Except as otherwise provided in ORS 366.744, the taxes collected under ORS 319.020,
 5 319.530, 803.090, 803.420, 818.225[, 825.476 and 825.480] **and section 2 of this 2005 Act**, minus \$71.2
 6 million per biennium, shall be allocated 24.38 percent to counties under ORS 366.762 and 15.57 per-
 7 cent to cities under ORS 366.800.

8 **SECTION 47.** ORS 366.744 is amended to read:

9 366.744. (1) The following moneys shall be allocated as provided in subsection (2) of this section:

10 (a) The amount attributable to the increase in title fees by the amendments to ORS 803.090 by
 11 section 1, chapter 618, Oregon Laws 2003.

12 (b) The amount attributable to the increase in registration fees by the amendments to ORS
 13 803.420 by section 2, chapter 618, Oregon Laws 2003, except for the amount paid to the State Parks
 14 and Recreation Department Fund under ORS 366.512; and

15 (c) The amount attributable to the increase in fees [*and tax rates*] by the amendments to ORS
 16 818.225[, 825.476 and 825.480 by sections 3, 4 and 5, chapter 618, Oregon Laws 2003.] **by section 3,**
 17 **chapter 618, Oregon Laws 2003, and an amount from the tax imposed under section 2 of this**
 18 **2005 Act that is equal to the amount attributable to the increase in fees and tax rates by the**
 19 **amendments to ORS 825.476 and 825.480 by sections 4 and 5, chapter 618, Oregon Laws 2003.**

20 (2) The moneys described in subsection (1) of this section shall be allocated as follows:

21 (a) 57.53 percent to the Department of Transportation.

22 (b) 25.48 percent to the department to pay the principal and interest due on bonds authorized
 23 under ORS 367.620 (3) that are issued for replacement and repair of bridges on county highways.
 24 However, any portion of the 25.48 percent that is not needed for payment of principal and interest
 25 on the bonds described in this paragraph shall be allocated to counties. Moneys allocated to coun-
 26 ties under this paragraph shall be distributed in the same manner as moneys allocated to counties
 27 under ORS 366.739 are distributed.

28 (c) 16.99 percent to the department to pay the principal and interest due on bonds authorized
 29 under ORS 367.620 (3) that are issued for replacement and repair of bridges on city highways.
 30 However, any portion of the 16.99 percent that is not needed for payment of principal and interest
 31 on the bonds described in this paragraph shall be allocated to cities. Moneys allocated to cities
 32 under this paragraph shall be distributed in the same manner as moneys allocated to cities under
 33 ORS 366.739 are distributed.

34 (3)(a) Multnomah County shall spend a majority of moneys distributed to it under subsection
 35 (2)(b) of this section on bridges in the county.

36 (b) Moneys distributed to Multnomah County under subsection (2)(b) of this section that are not
 37 spent on bridges shall be distributed equitably within the county, based on the agreement described
 38 in paragraph (c) of this subsection.

39 (c) Multnomah County and the cities within the county shall agree upon the distribution of
 40 moneys described in paragraph (b) of this subsection. When the county and the cities have reached
 41 an agreement, they shall notify the Oregon Transportation Commission of the agreement. If the
 42 commission does not receive notice of an agreement by June 30, 2004, the Department of Transpor-
 43 tation may not distribute moneys that would otherwise go to the county under paragraph (b) of this
 44 subsection. Such moneys shall revert to the State Highway Fund for use by the Department of
 45 Transportation.

SECTION 48. ORS 367.173 is amended to read:

367.173. The principal, interest, premium, if any, and the purchase or tender price of the grant anticipation revenue bonds issued under ORS 367.161 to 367.181 are payable solely from the following moneys:

(1) Federal transportation funds.

(2) To the extent affirmatively pledged at the time issuance of revenue bonds is authorized, the following moneys that are lawfully available:

(a) Moneys deposited in the State Highway Fund established under ORS 366.505.

(b) Except as provided in paragraph (c) of this subsection, moneys, once deposited in the State Highway Fund established under ORS 366.505, from the following sources may be affirmatively pledged:

(A) Moneys from the *[taxes and fees on motor carriers imposed under ORS 825.474 and 825.480]* **tax on diesel fuel imposed under section 2 of this 2005 Act.**

(B) Moneys from the tax on motor vehicle fuel imposed under ORS 319.020.

(C) Moneys from the tax on fuel used in motor vehicles imposed under ORS 319.530.

(D) Moneys described under ORS 803.090 from the titling of vehicles.

(E) Moneys described under ORS 803.420 from the registration of vehicles.

(F) Moneys described under ORS 807.370 relating to the issuance of driver licenses and driver permits.

(G) Moneys received by the Department of Transportation from taxes, fees or charges imposed after January 1, 2001, or other revenues or moneys received by the department from sources not listed in subparagraphs (A) to (F) of this paragraph that are lawfully available to be pledged under this section.

(c) Moneys described in paragraph (b) of this subsection do not include:

(A) Moneys provided for appropriations to counties under ORS 366.762 to 366.768.

(B) Moneys provided for appropriations to cities under ORS 366.785 to 366.820.

(C) Moneys in the account established under ORS 366.512 for parks and recreation.

SECTION 49. ORS 367.605 is amended to read:

367.605. (1) Moneys deposited in the State Highway Fund established under ORS 366.505 are pledged to payment of Highway User Tax Bonds issued under ORS 367.615 and 367.670.

(2) Except as provided in subsection (3) of this section, moneys, once deposited in the highway fund from the following sources are subject to the use or pledge described in subsection (1) of this section:

(a) Moneys from the *[taxes and fees on motor carriers]* **tax on diesel fuel** imposed under *[ORS 825.474 and 825.480]* **section 2 of this 2005 Act.**

(b) Moneys from the tax on motor vehicle fuel imposed under ORS 319.020.

(c) Moneys from the tax on fuel used in motor vehicles imposed under ORS 319.530.

(d) Moneys described under ORS 803.090 from the titling of vehicles.

(e) Moneys described under ORS 803.420 from the registration of vehicles.

(f) Moneys described under ORS 807.370 relating to the issuance of driver licenses and driver permits.

(g) Moneys received by the Department of Transportation from taxes, fees or charges imposed after January 1, 2001, or other revenues received by the department from sources not listed in paragraphs (a) to (f) of this subsection that are available for the use or pledge described by this section.

(3) Moneys described under subsection (2) of this section do not include:

1 (a) Moneys provided for appropriations to counties under ORS 366.762 to 366.768.

2 (b) Moneys provided for appropriations to cities under ORS 366.785 to 366.820.

3 (c) Moneys in the account established under ORS 366.512 for parks and recreation.

4 (4) To the extent affirmatively pledged, moneys from the following sources are subject to the
5 use or pledge described in subsection (1) of this section:

6 (a) Moneys received by the Department of Transportation from the United States government.

7 (b) Any other moneys legally available to the department.

8 (5) Notwithstanding ORS 366.507, the lien or charge of any pledge of moneys securing bonds
9 issued under ORS 367.615 or 367.670 is superior or prior to any other lien or charge and to any law
10 of the state requiring the department to spend moneys for specified highway purposes.

11 **SECTION 50.** ORS 367.621 is amended to read:

12 367.621. It is the policy of the State of Oregon to use increased revenues from the amendments
13 to ORS 803.090, 803.420[,] **and** 818.225[, 825.476 and 825.480] by sections 1 to [5] **3**, chapter 618,
14 Oregon Laws 2003, **and an amount from the tax imposed under section 2 of this 2005 Act that**
15 **is equal to the increased revenues from the amendments to ORS 825.476 and 825.480 by**
16 **sections 4 and 5, chapter 618, Oregon Laws 2003**, in a manner that maximizes the creation of new
17 jobs. Each public body, as defined in ORS 174.109, that receives moneys from the revenues generated
18 by the amendments to ORS 803.090, 803.420[,] **and** 818.225[, 825.476 and 825.480] by sections 1 to
19 [5] **3**, chapter 618, Oregon Laws 2003, **and receives moneys from the tax imposed under section**
20 **2 of this 2005 Act in amount equal to the amounts that would have been received from re-**
21 **venues generated by the amendments to ORS 825.476 and 825.480 by sections 4 and 5, chapter**
22 **618, Oregon Laws 2003**, shall use private sector resources to the greatest extent possible in ac-
23 complishing the work funded by revenues [*from the amendments to ORS 803.090, 803.420, 818.225,*
24 *825.476 and 825.480 by sections 1 to 5, chapter 618, Oregon Laws 2003*] **described in this section.**

25 **SECTION 51.** ORS 376.390 is amended to read:

26 376.390. Nothing in ORS 376.305 to 376.390 relieves the forest road contractor or agents or
27 subcontractors of the forest road contractor from payment of any taxes or fees prescribed by law[,
28 *except that, with respect to a motor vehicle operated upon a contract forest road by a forest road con-*
29 *tractor, or agent or subcontractor of the forest road contractor, the road tax mileage fees prescribed*
30 *by ORS 825.474, 825.476, 825.480 and 825.484 shall be assessed upon the declared combined weight of*
31 *the motor vehicle or 76,000 pounds, whichever is less.*]

32 **SECTION 52.** ORS 802.010 is amended to read:

33 802.010. (1) The Department of Transportation shall perform all of the duties, functions and
34 powers with respect to the following:

35 (a) The administration of the laws relating to the motor vehicle fuel license tax, aircraft fuel
36 license tax, [*and*] use fuel license tax including ORS chapter 319 **and diesel fuel tax under**
37 **sections 1 to 40 of this 2005 Act.**

38 (b) The administration of the laws relating to motor vehicle registration and titling and the is-
39 suance of certificates to vehicle dealers and vehicle wreckers including but not limited to the ad-
40 ministration of the vehicle code.

41 (c) The administration of the laws relating to driving privileges granted under licenses and
42 permits and under the vehicle code.

43 (d) The administration of the laws relating to operation of vehicles on highways and of vehicle
44 size, weight and use limits under the vehicle code.

45 (e) The administration of ORS 820.130 and 820.140.

1 (f) The administration of the provisions relating to proof of financial responsibility and future
 2 responsibility filings.

3 (2) The Director of Transportation shall act as a reciprocity officer for the purposes of ORS
 4 802.500 and 802.520.

5 (3) The director shall have the authority to execute or make such arrangements, agreements or
 6 declarations to carry out the provisions of ORS 802.500 and 802.520. The director shall receive no
 7 additional compensation for service performed under this subsection but shall be allowed actual and
 8 necessary expenses incurred in the performance of the duties to be paid from the account of the
 9 department.

10 **SECTION 53.** ORS 802.500 is amended to read:

11 802.500. The Director of Transportation may enter into agreements with the duly authorized
 12 representatives of any jurisdiction that issues registration to establish reciprocal privileges or reg-
 13 istration exemptions for vehicles as described in this section. All of the following apply to an
 14 agreement established under the authority granted by this section:

15 (1) An agreement may establish any of the following benefits, privileges and exemptions with
 16 respect to the operation of commercial or noncommercial vehicles in this state:

17 (a) For purposes of ORS 803.305 exemptions from registration and payment, wholly or partially,
 18 of any vehicle or registration fees.

19 (b) Privileges relating to vehicles used by disabled persons.

20 (c) Privileges relating to vehicle parking.

21 (d) Privileges relating to vehicle dealers.

22 (e) Privileges, exemptions or benefits relating to farm vehicles or implements of husbandry.

23 (f) Privileges relating to persons commercially transporting vehicles.

24 (g) Any similar privileges, benefits or exemptions relating to the operation of vehicles.

25 (h) Privileges, benefits or exemptions relating to the registration of fleets of vehicles.

26 (2) An agreement shall only grant the privileges, benefits and exemptions to a vehicle or the
 27 owner of a vehicle if the vehicle is any of the following:

28 (a) Registered in the jurisdiction where the person registering the vehicle has a legal residence.

29 (b) A commercial vehicle registered in a jurisdiction where the commercial enterprise in which
 30 the vehicle is used has a place of business. To qualify under this paragraph the vehicle must be
 31 assigned to the place of business and the place of business must be the place from which or in which
 32 the vehicle is most frequently dispatched, garaged, serviced, maintained, operated or otherwise
 33 controlled.

34 (c) A commercial vehicle registered in a jurisdiction where the vehicle has been registered be-
 35 cause of an agreement between two jurisdictions or a declaration issued by any jurisdiction.

36 (3) An agreement shall retain the right of the Department of Transportation to make the final
 37 determination as to the proper place of registration of a vehicle when there is a dispute or doubt
 38 concerning the proper place of registration. An agreement shall retain the right of the department
 39 to confer with the departments of other jurisdictions affected when making a determination under
 40 this subsection.

41 (4) An agreement shall not provide for any benefit, exemption or privilege with respect to fuel
 42 taxes, use fuel taxes, **diesel fuel taxes**, weight mile taxes or any other fees or taxes levied or as-
 43 sessed against the use of highways or use or ownership of vehicles except registration taxes, fees
 44 and requirements.

45 (5) An agreement must provide that any vehicle registered in this state will receive a similar

1 kind or degree of exemptions, benefits and privileges when operated in another jurisdiction that is
 2 party to the agreement as vehicles registered in the other jurisdiction receive when operated in this
 3 state.

4 (6) An agreement, in the judgment of the director, shall be in the best interest of this state and
 5 its citizens, shall be fair and equitable to this state and its citizens and shall be determined on the
 6 basis and recognition of benefits that accrue to the economy of this state from the uninterrupted
 7 flow of commerce.

8 (7) An agreement may authorize a vehicle that would otherwise be required to be registered in
 9 one jurisdiction to be registered in another jurisdiction without losing any benefit, exemption or
 10 privilege under the agreement if the vehicle is operated from a base located in the other jurisdiction.

11 (8) An agreement may allow the lessee or lessor of a vehicle, subject to the terms and conditions
 12 of the lease to receive benefits, exemptions and privileges under the agreement.

13 (9) An agreement may authorize the department to suspend or cancel any exceptions, benefits
 14 or privileges granted to any person under the agreement if the person violates any of the terms or
 15 conditions of the agreement or violates any law or rule of this state relating to vehicles.

16 (10) All agreements shall be in writing and filed with the department within 10 days after exe-
 17 cution or the effective date of the agreement, whichever is later.

18 (11) An agreement may be a limited type agreement with any state bordering this state as de-
 19 scribed in this subsection. An agreement described under this subsection is subject to all of the
 20 following:

21 (a) The benefits, exemptions and privileges under the agreement shall only be extended to ve-
 22 hicles or a class of vehicles as specified in the agreement.

23 (b) The agreement shall be applicable only within an area in each state that is situated along
 24 the boundary between the states and that is substantially equal in size.

25 (c) The usage permitted of the vehicles in the two areas shall be as substantially equal as may
 26 be practicable.

27 (d) The areas and usage subject to the agreement shall be described in the agreement.

28 (e) Proportional registration shall not be required under the agreement.

29 (f) The agreement shall comply with other mandatory provisions of this section and may contain
 30 any other provisions described under this section.

31 (g) A vehicle operating under the agreement may be required to obtain a permit under ORS
 32 803.610.

33 (12) An agreement may require the display or submission of evidence of registration for any
 34 vehicle operating under the agreement.

35 **SECTION 54.** ORS 802.520 is amended to read:

36 802.520. The Director of Transportation may examine the laws and requirements of any juris-
 37 diction that issues out-of-state registration and may grant a privilege or a registration exemption
 38 described in this section to vehicles or owners of vehicles registered in that jurisdiction. All of the
 39 following apply to the authority granted by this section:

40 (1) The director may only grant privileges or registration exemptions under this section to ve-
 41 hicles that are registered in jurisdictions that do not have an agreement with this state for privi-
 42 leges or registration exemptions under ORS 802.500 or 826.005 or an agreement for proportional
 43 registration with this state under ORS 826.007.

44 (2) All grants of privileges and registration exemptions under this section shall be by declara-
 45 tion, shall be in writing and shall be filed with the Department of Transportation within 10 days

1 after execution or effective date, whichever is later.

2 (3) A declaration may grant benefits, privileges and exemptions with respect to the operation
3 of commercial or noncommercial vehicles in this state of the same type that may be established by
4 agreement under ORS 802.500 or 826.005.

5 (4) A declaration shall only grant the privileges, benefits and exemptions to a vehicle or the
6 owner of a vehicle if the vehicle is any of the following:

7 (a) Registered in the jurisdiction where the person registering the vehicle has a legal residence.

8 (b) A commercial vehicle registered in a jurisdiction where the commercial enterprise in which
9 the vehicle is used has a place of business. To qualify under this paragraph the vehicle must be
10 assigned to the place of business and the place of business must be the place from which or in which
11 the vehicle is most frequently dispatched, garaged, serviced, maintained, operated or otherwise
12 controlled.

13 (c) A commercial vehicle registered in a jurisdiction where the vehicle has been registered be-
14 cause of an agreement between two jurisdictions or a declaration issued by any jurisdiction.

15 (5) The department shall make any final determination in any case of doubt or dispute as to the
16 proper place of registration of a vehicle, but may confer with departments of other jurisdictions af-
17 fected.

18 (6) A declaration shall not provide for any benefit, exemption or privilege with respect to fuel
19 taxes, use fuel taxes, **diesel fuel taxes**, weight mile taxes or other fees or taxes levied or assessed
20 against the use of highways or use or ownership of vehicles except registration taxes, fees and re-
21 quirements.

22 (7) A declaration shall only grant benefits, exemptions or privileges that are, in the judgment
23 of the director, in the best interest of this state and its citizens, fair and equitable to this state and
24 its citizens and determined on the basis and with recognition of benefits that accrue to the economy
25 of this state from the uninterrupted flow of commerce.

26 (8) A declaration may authorize a vehicle that would otherwise be required to be registered in
27 one jurisdiction to be registered in another jurisdiction without losing any benefit, exemption or
28 privilege under the declaration if the vehicle is operated from a base located in the other jurisdic-
29 tion.

30 (9) A declaration may allow the lessee or lessor of a vehicle, subject to the terms and conditions
31 of the lease, to receive benefits, exemptions and privileges under the declaration.

32 (10) A declaration may authorize the department to suspend or cancel any exemptions, benefits
33 or privileges granted to any person under the declaration if the person violates any of the terms or
34 conditions of the declaration or violates any law or rule of this state relating to vehicles.

35 **SECTION 55.** ORS 803.420, as amended by section 112, chapter 655, Oregon Laws 2003, is
36 amended to read:

37 803.420. This section establishes registration fees for vehicles. If there is uncertainty as to the
38 classification of a vehicle for purposes of the payment of registration fees under the vehicle code,
39 the Department of Transportation may classify the vehicle to assure that registration fees for the
40 vehicle are the same as for vehicles the department determines to be comparable. The registration
41 fees for the vehicle shall be those based on the classification determined by the department. Except
42 as otherwise provided in this section, or unless the vehicle is registered quarterly, the fees described
43 in this section are for an entire registration period for the vehicle as described under ORS 803.415.
44 The department shall apportion any fee under this section to reflect the number of quarters regis-
45 tered for a vehicle registered for a quarterly registration period under ORS 803.415. The fees are

1 payable when a vehicle is registered and upon renewal of registration. Except as provided in ORS
 2 801.041 (3) and 801.042 (7), the fee shall be increased by any amount established by the governing
 3 body of a county or by the governing body of a district, as defined in ORS 801.237 under ORS
 4 801.041 or 801.042 as an additional registration fee for the vehicle. The fees for registration of ve-
 5 hicles are as follows:

6 (1) Vehicles not otherwise provided for in this section or ORS 821.320, \$27 for each year of the
 7 registration period.

8 (2) Mopeds, \$15 for each year of the registration period.

9 (3) Motorcycles, \$15 for each year of the registration period.

10 (4) Government-owned vehicles registered under ORS 805.040, \$3.50.

11 (5) State-owned vehicles registered under ORS 805.045, \$3.50 on registration or renewal.

12 (6) Undercover vehicles registered under ORS 805.060, \$3.50 on registration or renewal.

13 (7) Antique vehicles registered under ORS 805.010, \$54.

14 (8) Vehicles of special interest registered under ORS 805.020, \$81.

15 (9) Electric vehicles and hybrid vehicles that use electricity and another source of motive power,
 16 as follows:

17 (a) The registration fee for an electric or hybrid vehicle not otherwise described in this sub-
 18 section is \$27 for each year of the registration period.

19 (b) The registration fee for electric or hybrid vehicles that have two or three wheels is \$27. This
 20 paragraph does not apply to electric or hybrid mopeds. Electric or hybrid mopeds are subject to the
 21 same registration fee as otherwise provided for mopeds under this section.

22 (c) The registration fees for the following electric or hybrid vehicles are the same as for com-
 23 parable nonelectric vehicles described in this section plus 50 percent of such fee:

24 (A) Motor homes.

25 (B) Commercial buses.

26 (C) Vehicles registered as farm vehicles under ORS 805.300.

27 (D) Vehicles required to establish registration weight under ORS 803.430 or 826.013.

28 (10)(a) **Except as otherwise provided in this subsection**, motor vehicles required to establish
 29 a registration weight under ORS 803.430 or 826.013, and commercial buses as provided in the fol-
 30 lowing chart, based upon the weight submitted in the declaration of weight prepared under ORS
 31 803.435 or 826.015:

32 [_____]

<i>Weight in Pounds</i>	<i>Fee</i>
35 8,000 or less	\$ 27
36 8,001 to 10,000	169
37 10,001 to 12,000	192
38 12,001 to 14,000	215
39 14,001 to 16,000	238
40 16,001 to 18,000	261
41 18,001 to 20,000	291
42 20,001 to 22,000	314
43 22,001 to 24,000	345
44 24,001 to 26,000	375
45 26,001 to 28,000	184

1	28,001	to	30,000	192
2	30,001	to	32,000	207
3	32,001	to	34,000	215
4	34,001	to	36,000	230
5	36,001	to	38,000	238
6	38,001	to	40,000	253
7	40,001	to	42,000	261
8	42,001	to	44,000	276
9	44,001	to	46,000	284
10	46,001	to	48,000	291
11	48,001	to	50,000	307
12	50,001	to	52,000	322
13	52,001	to	54,000	330
14	54,001	to	56,000	337
15	56,001	to	58,000	352
16	58,001	to	60,000	368
17	60,001	to	62,000	383
18	62,001	to	64,000	398
19	64,001	to	66,000	406
20	66,001	to	68,000	421
21	68,001	to	70,000	429
22	70,001	to	72,000	444
23	72,001	to	74,000	452
24	74,001	to	76,000	467
25	76,001	to	78,000	475
26	78,001	to	80,000	490
27	80,001	to	82,000	498
28	82,001	to	84,000	513
29	84,001	to	86,000	521
30	86,001	to	88,000	536
31	88,001	to	90,000	544
32	90,001	to	92,000	559
33	92,001	to	94,000	567
34	94,001	to	96,000	582
35	96,001	to	98,000	590
36	98,001	to	100,000	598
37	100,001	to	102,000	613
38	102,001	to	104,000	621
39	104,001	to	105,500	636

[_____]

40
41
42
43
44
45

Weight in Pounds	Fixed Fee	Variable Fee	Total
-------------------------	------------------	---------------------	--------------

1	8,000	or	less	\$	_____	\$	_____
2	8,001	to	10,000		_____		_____
3	10,001	to	12,000		_____		_____
4	12,001	to	14,000		_____		_____
5	14,001	to	16,000		_____		_____
6	16,001	to	18,000		_____		_____
7	18,001	to	20,000		_____		_____
8	20,001	to	22,000		_____		_____
9	22,001	to	24,000		_____		_____
10	24,001	to	26,000		_____		_____
11	26,001	to	28,000		_____	\$	_____
12	28,001	to	30,000		_____		_____
13	30,001	to	32,000		_____		_____
14	32,001	to	34,000		_____		_____
15	34,001	to	36,000		_____		_____
16	36,001	to	38,000		_____		_____
17	38,001	to	40,000		_____		_____
18	40,001	to	42,000		_____		_____
19	42,001	to	44,000		_____		_____
20	44,001	to	46,000		_____		_____
21	46,001	to	48,000		_____		_____
22	48,001	to	50,000		_____		_____
23	50,001	to	52,000		_____		_____
24	52,001	to	54,000		_____		_____
25	54,001	to	56,000		_____		_____
26	56,001	to	58,000		_____		_____
27	58,001	to	60,000		_____		_____
28	60,001	to	62,000		_____		_____
29	62,001	to	64,000		_____		_____
30	64,001	to	66,000		_____		_____
31	66,001	to	68,000		_____		_____
32	68,001	to	70,000		_____		_____
33	70,001	to	72,000		_____		_____
34	72,001	to	74,000		_____		_____
35	74,001	to	76,000		_____		_____
36	76,001	to	78,000		_____		_____
37	78,001	to	80,000		_____		_____
38	80,001	to	82,000		_____		_____
39	82,001	to	84,000		_____		_____
40	84,001	to	86,000		_____		_____
41	86,001	to	88,000		_____		_____
42	88,001	to	90,000		_____		_____
43	90,001	to	92,000		_____		_____
44	92,001	to	94,000		_____		_____
45	94,001	to	96,000		_____		_____

1	96,001 to 98,000	_____	_____	_____
2	98,001 to 100,000	_____	_____	_____
3	100,001 to 102,000	_____	_____	_____
4	102,001 to 104,000	_____	_____	_____
5	104,001 to 105,500	_____	_____	_____

6
7

8 **(b) Concrete mixers and motor vehicles described in paragraph (a) of this subsection that**
 9 **primarily carry logs, poles, pilings, sand or gravel, the fixed fee determined under paragraph**
 10 **(a) of this subsection, plus a variable fee of \$900.**

11 **(c) Motor vehicles described in paragraph (a) of this subsection that are used for trans-**
 12 **porting garbage or recyclables, the fixed fee determined under paragraph (a) of this sub-**
 13 **section, plus a variable fee of \$430.**

14 **(d) Motor vehicles described in paragraph (a) of this subsection that weigh at least 26,001**
 15 **pounds and not more than 60,000 pounds, that traveled less than 30,000 miles in the year**
 16 **immediately preceding the year for which they are being registered and that are not other-**
 17 **wise described in paragraphs (b) to (g) of this subsection, the fixed fee determined under**
 18 **paragraph (a) of this subsection.**

19 **(e) Motor vehicles described in paragraph (a) of this subsection that weigh at least 26,001**
 20 **pounds and that traveled less than 5,000 miles in the year immediately preceding the year for**
 21 **which they are being registered, the fixed fee determined under paragraph (a) of this sub-**
 22 **section.**

23 **(f) Motor vehicles described in paragraph (a) of this subsection that are exclusively**
 24 **owned and operated by investor-owned utilities, the fixed fee determined under paragraph (a)**
 25 **of this subsection.**

26 **(g) Motor vehicles that weigh at least 60,001 pounds and that are used exclusively in**
 27 **conjunction with the installation of heavy machinery, the fixed fee determined under para-**
 28 **graph (a) of this subsection.**

29 **(11)(a) Motor vehicles with a registration weight of more than 8,000 pounds that are described**
 30 **in ORS 825.015, that are operated by a charitable organization as defined in ORS 825.017 (14), that**
 31 **are certified under ORS 822.205, [or] that are used exclusively to transport manufactured structures,**
 32 **or that are registered by an individual or business whose principal activity involves**
 33 **waterworks construction and who is licensed under ORS 479.630 (13) or 537.747, as provided**
 34 **in the following chart:**

35
36

Weight in Pounds	Fee
8,001 to 10,000	\$ 50
10,001 to 12,000	60
12,001 to 14,000	65
14,001 to 16,000	75
16,001 to 18,000	80
18,001 to 20,000	90
20,001 to 22,000	95
22,001 to 24,000	105

1	24,001	to	26,000	110
2	26,001	to	28,000	120
3	28,001	to	30,000	125
4	30,001	to	32,000	135
5	32,001	to	34,000	140
6	34,001	to	36,000	150
7	36,001	to	38,000	155
8	38,001	to	40,000	165
9	40,001	to	42,000	170
10	42,001	to	44,000	180
11	44,001	to	46,000	185
12	46,001	to	48,000	190
13	48,001	to	50,000	200
14	50,001	to	52,000	210
15	52,001	to	54,000	215
16	54,001	to	56,000	220
17	56,001	to	58,000	230
18	58,001	to	60,000	240
19	60,001	to	62,000	250
20	62,001	to	64,000	260
21	64,001	to	66,000	265
22	66,001	to	68,000	275
23	68,001	to	70,000	280
24	70,001	to	72,000	290
25	72,001	to	74,000	295
26	74,001	to	76,000	305
27	76,001	to	78,000	310
28	78,001	to	80,000	320
29	80,001	to	82,000	325
30	82,001	to	84,000	335
31	84,001	to	86,000	340
32	86,001	to	88,000	350
33	88,001	to	90,000	355
34	90,001	to	92,000	365
35	92,001	to	94,000	370
36	94,001	to	96,000	380
37	96,001	to	98,000	385
38	98,001	to	100,000	390
39	100,001	to	102,000	400
40	102,001	to	104,000	405
41	104,001	to	105,500	415
42				

43

44 (b) The owner of a vehicle described in paragraph (a) of this subsection must certify at the time

45 of initial registration, in a manner determined by the department by rule, that the motor vehicle

1 will be used exclusively to transport manufactured structures or exclusively as described in ORS
 2 822.210, 825.015 or 825.017 (14) **or that the person meets the criteria in paragraph (a) of this**
 3 **subsection for registration of a vehicle by a person or business involved in waterworks con-**
 4 **struction.** Registration of a vehicle described in paragraph (a) of this subsection is invalid if the
 5 vehicle is operated in any manner other than that described in the certification under this para-
 6 graph.

7 (12) Trailers registered under permanent registration, [~~\$10~~] **\$30.**

8 (13) Fixed load vehicles as follows:

9 (a) If a declaration of weight described under ORS 803.435 is submitted establishing the weight
 10 of the vehicle at 3,000 pounds or less, \$54.

11 (b) If no declaration of weight is submitted or if the weight of the vehicle is in excess of 3,000
 12 pounds, \$75.

13 (14) Trailers for hire that are equipped with pneumatic tires made of an elastic material and that
 14 are not travel trailers or trailers registered under permanent registration, \$27.

15 (15) Trailers registered as part of a fleet under an agreement reached pursuant to ORS 802.500,
 16 the same as the fee for vehicles of the same type registered under other provisions of the Oregon
 17 Vehicle Code.

18 (16) Travel trailers, campers and motor homes as follows, based on length as determined under
 19 ORS 803.425:

20 (a) For travel trailers or campers that are 6 to 10 feet in length, \$81.

21 (b) For travel trailers or campers over 10 feet in length, \$81 plus \$6.75 a foot for each foot of
 22 length over the first 10 feet.

23 (c) For motor homes that are 6 to 10 feet in length, \$126.

24 (d) For motor homes over 10 feet in length, \$126 plus \$7.50 a foot for each foot of length over
 25 the first 10 feet.

26 (17) Special use trailers as follows, based on length as determined under ORS 803.425:

27 (a) For lengths 6 to 10 feet, \$54.

28 (b) For special use trailers over 10 feet in length, \$54 plus \$3 a foot for each foot of length over
 29 the first 10 feet.

30 (18) Fees for vehicles with proportional registration under ORS 826.009, or proportioned fleet
 31 registration under ORS 826.011, are as provided for vehicles of the same type under this section
 32 except that the fees shall be fixed on an apportioned basis as provided under the agreement estab-
 33 lished under ORS 826.007.

34 (19) For any vehicle that is registered under a quarterly registration period, a minimum of \$15
 35 for each quarter registered plus an additional fee of \$1.

36 (20) In addition to any other fees charged for registration of vehicles in fleets under ORS
 37 805.120, the department may charge the following fees:

38 (a) A \$2 service charge for each vehicle entered into a fleet.

39 (b) A \$1 service charge for each vehicle in the fleet at the time of renewal.

40 (21) The registration fee for vehicles with special registration for disabled veterans under ORS
 41 805.100 is a fee of \$15.

42 (22) Subject to subsection (19) of this section, the registration fee for motor vehicles registered
 43 as farm vehicles under ORS 805.300 is as follows based upon the registration weight given in the
 44 declaration of weight submitted under ORS 803.435:

1			
2	Weight in Pounds		Fee
3	8,000	or less	\$ 27
4	8,001	to 10,000	30
5	10,001	to 12,000	35
6	12,001	to 14,000	45
7	14,001	to 16,000	50
8	16,001	to 18,000	60
9	18,001	to 20,000	65
10	20,001	to 22,000	75
11	22,001	to 24,000	80
12	24,001	to 26,000	90
13	26,001	to 28,000	95
14	28,001	to 30,000	105
15	30,001	to 32,000	110
16	32,001	to 34,000	120
17	34,001	to 36,000	125
18	36,001	to 38,000	135
19	38,001	to 40,000	140
20	40,001	to 42,000	150
21	42,001	to 44,000	155
22	44,001	to 46,000	165
23	46,001	to 48,000	170
24	48,001	to 50,000	180
25	50,001	to 52,000	185
26	52,001	to 54,000	190
27	54,001	to 56,000	200
28	56,001	to 58,000	210
29	58,001	to 60,000	215
30	60,001	to 62,000	220
31	62,001	to 64,000	230
32	64,001	to 66,000	240
33	66,001	to 68,000	245
34	68,001	to 70,000	250
35	70,001	to 72,000	260
36	72,001	to 74,000	265
37	74,001	to 76,000	275
38	76,001	to 78,000	280
39	78,001	to 80,000	290
40	80,001	to 82,000	295
41	82,001	to 84,000	305
42	84,001	to 86,000	310
43	86,001	to 88,000	320
44	88,001	to 90,000	325
45	90,001	to 92,000	335

1	92,001 to	94,000	340
2	94,001 to	96,000	350
3	96,001 to	98,000	355
4	98,001 to	100,000	365
5	100,001 to	102,000	370
6	102,001 to	104,000	380
7	104,001 to	105,500	385

8
9

(23) The registration fee for school vehicles registered under ORS 805.050 is \$7.50.

(24) The registration fee for a low-speed vehicle is \$54.

SECTION 56. ORS 803.645, as amended by section 118, chapter 655, Oregon Laws 2003, is amended to read:

803.645. Fees for trip permits issued under ORS 803.600 are as follows:

(1) For a heavy motor vehicle trip permit, [~~\$21~~] **\$42 for a three-day permit and \$15 for a one-day permit.**

(2) For a heavy trailer trip permit, [~~\$10~~] **\$20.**

(3) For a light vehicle trip permit, \$20.

(4) For a recreational vehicle trip permit, \$30.

(5) For a registration weight trip permit, [~~\$5~~] **\$10.**

(6) For a registered vehicle trip permit, [~~\$5~~] **\$10.**

(7) For a 10-day trip permit issued under ORS 803.600 (2) by a person with a vehicle dealer certificate or a towing business certificate, \$10.

SECTION 57. ORS 810.530, as amended by section 119a, chapter 655, Oregon Laws 2003, is amended to read:

810.530. (1) A weighmaster or motor carrier enforcement officer in whose presence an offense described in this subsection is committed may arrest or issue a citation for the offense in the same manner as under ORS 810.410 as if the weighmaster or motor carrier enforcement officer were a police officer. This subsection applies to the following offenses:

(a) Violation of maximum weight limits under ORS 818.020.

(b) Violation of posted weight limits under ORS 818.040.

(c) Violation of administratively imposed weight or size limits under ORS 818.060.

(d) Violation of maximum size limits under ORS 818.090.

(e) Exceeding maximum number of vehicles in combination under ORS 818.110.

(f) Violation of posted limits on use of road under ORS 818.130.

(g) Violation of towing safety requirements under ORS 818.160.

(h) Operating with sifting or leaking load under ORS 818.300.

(i) Dragging objects on highway under ORS 818.320.

(j) Unlawful use of devices without wheels under ORS 815.155.

(k) Unlawful use of metal objects on tires under ORS 815.160.

(L) Operation without pneumatic tires under ORS 815.170.

(m) Operation in violation of vehicle variance permit under ORS 818.340.

(n) Failure to carry and display permit under ORS 818.350.

(o) Failure to comply with commercial vehicle enforcement requirements under ORS 818.400.

(p) Violation of any provision of ORS chapter 825.

- 1 (q) Operation without proper fenders or mudguards under ORS 815.185.
- 2 (r) Vehicle operating without driving privileges in violation of ORS 807.010 if the person is op-
 3 erating a commercial motor vehicle and the person does not have a commercial driver license or
 4 does not have an appropriate permit.
- 5 (s) Violation driving while suspended or revoked in violation of ORS 811.175 if the person is
 6 operating a commercial motor vehicle while the person's commercial driver license is suspended or
 7 revoked.
- 8 (t) Failure to use vehicle traction tires or chains in violation of ORS 815.140 if the person is
 9 operating a motor vehicle subject to ORS chapter 825 or 826.
- 10 (2) A weighmaster or motor carrier enforcement officer in whose presence an offense described
 11 in this subsection is committed by a person operating a commercial motor vehicle may issue a ci-
 12 tation for the offense. A weighmaster or motor carrier enforcement officer who finds evidence that
 13 an offense described in this subsection has been committed by a person operating a commercial
 14 motor vehicle or by a motor carrier for which the person is acting as an agent may issue a citation
 15 for the offense. A weighmaster or motor carrier enforcement officer issuing a citation under this
 16 subsection has the authority granted a police officer issuing a citation under ORS 810.410. A citation
 17 issued under this subsection to the operator of a commercial motor vehicle shall be considered to
 18 have been issued to the motor carrier that owns the commercial motor vehicle if the operator is not
 19 the owner. This subsection applies to the following offenses, all of which, **except those described**
 20 **in paragraphs (i) and (j) of this subsection**, are Class A traffic violations under ORS 825.990 (1):
- 21 (a) Repeatedly violating or avoiding any order or rule of the Department of Transportation.
- 22 (b) Repeatedly refusing or repeatedly failing, after being requested to do so, to furnish service
 23 authorized by certificate.
- 24 (c) Refusing or failing to file the annual report as required by ORS 825.320.
- 25 (d) Refusing or failing to maintain records required by the department or to produce such re-
 26 cords for examination as required by the department.
- 27 (e) Failing to appear for a hearing after notice that the carrier's certificate or permit is under
 28 investigation.
- 29 (f) Filing with the department an application that is false with regard to the ownership, pos-
 30 session or control of the equipment being used or the operation being conducted.
- 31 (g) Delinquency in reporting or paying any fee, tax or penalty due to the department under ORS
 32 chapter 825 or 826.
- 33 *[(h) Refusing or failing to file a deposit or bond as required under ORS 825.506.]*
- 34 *[(i)]* (h) Failing to comply with the applicable requirements for attendance at a motor carrier
 35 education program as required by ORS 825.402.
- 36 (i) **Failure to carry or display a valid international fuel tax agreement license, valid**
 37 **international fuel tax agreement validating decals or a valid trip permit issued under section**
 38 **12 of this 2005 Act.**
- 39 (j) **Violation of dyed diesel fuel use requirements imposed by section 7 of this 2005 Act.**
- 40 (3) A weighmaster or motor carrier enforcement officer who finds evidence that a person oper-
 41 ating a commercial motor vehicle has committed the offense of failure to pay the appropriate reg-
 42 istration fee under ORS 803.315 may issue a citation for the offense in the same manner as under
 43 ORS 810.410 as if the weighmaster or motor carrier enforcement officer were a police officer.
- 44 (4) The authority of a weighmaster or motor carrier enforcement officer to issue citations or
 45 arrest under this section is subject to ORS chapter 153.

1 (5)(a) A person is a weighmaster for purposes of this section if the person is a county
2 weighmaster or a police officer.

3 (b) A person is a motor carrier enforcement officer under this section if the person is duly au-
4 thorized as a motor carrier enforcement officer by the Department of Transportation.

5 (6) A weighmaster or motor carrier enforcement officer may accept security in the same manner
6 as a police officer under ORS 810.440 and 810.450 and may take as security for the offenses, in ad-
7 dition to other security permitted under this section, the sum fixed as the base fine for the offense.

8 (7) A weighmaster or motor carrier enforcement officer may arrest a person for the offense of
9 failure to appear in a violation proceeding under ORS 153.992 if the violation is based upon a cita-
10 tion for any offense described in subsection (1) or (3) of this section except those described in sub-
11 section (1)(p) of this section.

12 (8) A weighmaster or motor carrier enforcement officer may exercise the same authority as a
13 police officer under ORS 810.490 to enforce vehicle requirements and detain vehicles. A person who
14 fails to comply with the authority of a weighmaster or motor carrier enforcement officer under this
15 subsection is subject to penalty under ORS 818.400.

16 **SECTION 58.** ORS 818.205 is amended to read:

17 818.205. (1) The Department of Transportation, in consultation with other road authorities, shall
18 develop and implement a system of issuing continuous operation variance permits. The system shall
19 allow a person to obtain one permit that is valid for every road authority in whose jurisdiction the
20 person will travel.

21 (2) The department, in consultation with other road authorities, shall develop standards for
22 terms and conditions of continuous operation variance permits. The standards shall be applicable
23 throughout the state and shall honor size and weight restrictions established by any road authority
24 for highways and structures under its jurisdiction.

25 (3) If requested to do so by another road authority, the department shall contract with that road
26 authority to allow the authority to distribute permits described in this section. The department may
27 contract with private contractors to distribute permits described in this section.

28 (4) Notwithstanding any other provision of law, a road authority other than the department may
29 not issue a continuous operation variance permit for its roads unless the road authority participates
30 in the system developed under subsection (1) of this section.

31 (5) For purposes of provisions of Oregon Revised Statutes referring to permits issued under ORS
32 818.200, a permit issued under this section shall be considered a permit issued under ORS 818.200,
33 unless to so consider the permit contradicts a specific provision of this section.

34 (6) The fee for a permit issued under this section that is valid for travel in more than one road
35 authority jurisdiction shall be an amount determined by the department by rule, not to exceed [\$8]
36 \$16, plus an additional amount to be determined by the department by rule, not to exceed \$8, for
37 each jurisdiction in which travel is authorized by the permit.

38 **SECTION 59.** ORS 818.225 is amended to read:

39 818.225. (1)(a) In addition to any fee for a single-trip nondivisible load permit, a person who is
40 issued the permit or who operates a vehicle in a manner that requires the permit is liable for pay-
41 ment of a road use assessment fee of five and seven-tenths cents per equivalent single-axle load mile
42 traveled. As used in this subsection, "equivalent single-axle load" means the relationship between
43 actual or requested weight and an 18,000 pound single-axle load as determined by the American
44 Association of State Highway and Transportation Officials Road Tests reported at the Proceedings
45 Conference of 1962. The Department of Transportation may adopt rules to standardize the determi-

1 nation of equivalent single-axle load computation based on average highway conditions.

2 (b) If the road use assessment fee is not collected at the time of issuance of the permit, the de-
 3 partment shall bill the permittee for the amount due. The account shall be considered delinquent if
 4 not paid within 60 days of billing.

5 *[(c) The miles of travel authorized by a single-trip nondivisible load permit shall be exempt from*
 6 *taxation under ORS chapter 825.]*

7 (2) The department by rule may establish procedures for payment, collection and enforcement
 8 of the fees and assessments established by this chapter.

9 **SECTION 60.** ORS 818.270 is amended to read:

10 818.270. (1) **Except as otherwise provided in subsection (5) of this section,** the fee for issu-
 11 ance of a variance permit under ORS 818.200 may be any amount determined by a road authority,
 12 not to exceed ~~[\$8]~~ **\$16**. If the variance permit is issued by a private contractor, the contractor may
 13 charge an additional fee not to exceed \$5, **plus an amount to be determined by the Department**
 14 **of Transportation by rule, not to exceed \$16, for each road jurisdiction in which travel is**
 15 **authorized by the permit.**

16 (2) The fee for issuance of a sifting or leaking load permit under ORS 818.230 is ~~[\$8]~~ **\$16**.

17 (3) The fee for issuance of a dragging permit under ORS 818.240 is \$8.

18 (4) The fee for issuance of a permit under ORS 818.260 for the use of bus safety lights is a fee
 19 established by rule by the Department of Transportation. Any fee established for purposes of this
 20 subsection shall not exceed the actual costs of issuing the permit.

21 **(5) In addition to the fee described in subsection (1) of this section, the fee paid for is-**
 22 **suance of a variance permit described in ORS 818.200, the following fees shall be paid for a**
 23 **separate continuous permit issued under ORS 818.200 for each of the following configura-**
 24 **tions:**

Weight Groups (Pounds)	Number of Axles		
	5	6	7
80,001 to 82,000	\$ 165.00		
82,001 to 84,000	173.25		
84,001 to 86,000	181.91		
86,001 to 88,000	191.01		
88,001 to 90,000	200.56		
90,001 to 92,000	210.59	\$ 165.00	
92,001 to 94,000	221.12	173.25	
94,001 to 96,000	232.17	181.91	
96,001 to 98,000	243.78	191.01	
98,001 to 100,000		200.56	\$ 165.00
100,001 to 102,000			173.25
102,001 to 104,000			181.91
104,001 to 105,500			191.01

44 **SECTION 61.** ORS 825.005 is amended to read:

45 825.005. As used in this chapter:

1 (1) "Carrier" or "motor carrier" means for-hire carrier or private carrier.

2 (2) "Cartage carrier" means any person who undertakes to transport any class of property by
 3 motor vehicle for compensation when the transportation is performed wholly within an incorporated
 4 city or a commercial zone adjacent to an incorporated city.

5 (3) "Certificate" means an authority issued to a for-hire carrier under ORS 825.110.

6 (4) "Combined weight" means the weight of the motor vehicle plus the weight of the maximum
 7 load which the applicant has declared such vehicle will carry. Any declared combined weight is
 8 subject to audit and approval by the Department of Transportation. The combined weight of motor
 9 buses or bus trailers is the light weight of the vehicle plus the weight of the maximum seating ca-
 10 pacity including the driver's seat estimated at 170 pounds per seat, exclusive of emergency seats,
 11 except that transit-type motor vehicles may use 150 pounds per seat in determining combined weight.
 12 In cases where a bus has a seating capacity which is not arranged for separate or individual seats,
 13 18 lineal inches of such capacity shall be deemed the equivalent of a passenger seat.

14 (5) "Department" means the Department of Transportation.

15 [(6) "*Extreme miles*" or "*extreme mileage*" means the total miles operated by a vehicle over the
 16 public highways, except the extra miles necessarily operated in traversing detours or temporary routes
 17 on account of road blockades in the state.]

18 [(7)] (6) "For-hire carrier" means:

19 (a) Any person who transports persons or property for hire or who publicly purports to be
 20 willing to transport persons or property for hire by motor vehicle; or

21 (b) Any person who leases, rents or otherwise provides a motor vehicle to the public and who
 22 in connection therewith in the regular course of business provides, procures or arranges for, di-
 23 rectly, indirectly or by course of dealing, a driver or operator therefor.

24 [(8)] (7) "Motor vehicle" means any self-propelled vehicle and any such vehicle in combination
 25 with any trailing units, used or physically capable of being used upon any public highway in this
 26 state in the transportation of persons or property, except vehicles operating wholly on fixed rails
 27 or tracks and electric trolley buses. "Motor vehicle" includes overdimension vehicles or vehicles
 28 permitted excessive weights pursuant to a special authorization issued by a city, county or the De-
 29 partment of Transportation.

30 [(9)] (8) "Pack or load services" means services relating to the packing or loading of personal
 31 property that are performed:

32 (a) By a person that is in the business of performing such services;

33 (b) For compensation;

34 (c) For the purpose of moving the personal property; and

35 (d) By a person that does not directly or indirectly provide a motor vehicle for the movement
 36 of the property or act as an agent for a person that provides a motor vehicle for the movement of
 37 the property.

38 [(10)] (9) "Permit" means an authority issued to a carrier under ORS 825.102, 825.104, 825.106,
 39 825.108 or 825.127.

40 [(11)] (10) "Private carrier" means any person who operates a motor vehicle over the public
 41 highways of this state for the purpose of transporting persons or property when the transportation
 42 is incidental to a primary business enterprise, other than transportation, in which such person is
 43 engaged.

44 [(12) "*Privilege taxes*" means the weight-mile tax and fees prescribed in this chapter.]

45 [(13)] (11) "Property" includes, but is not limited to, permanent loads such as equipment, appli-

1 ances, devices, or ballast that are attached to, carried on, or made a part of the vehicle and that
2 are designed to serve some functional purpose.

3 [(14)] (12) "Public highway" means every street, alley, road, highway and thoroughfare in this
4 state used by the public or dedicated or appropriated to public use.

5 [(15)] (13) "Safe for operation" means mechanical safety and compliance with rules regarding
6 equipment and operation as are specified by law or by rule of the Department of Transportation.

7 [(16)] (14) "Transit-type motor vehicle" means any passenger-carrying vehicle that does not have
8 a separate space for transporting baggage or express.

9 [(17)] (15) "Transporter" has the meaning given that term in ORS 466.005.

10 **SECTION 62.** ORS 825.007 is amended to read:

11 825.007. (1) The business of operating as a motor carrier of persons or property for hire upon
12 the highways of this state is declared to be a business affected with the public interest. It is hereby
13 declared to be the state transportation policy to do the following:

14 (a) Promote safe, adequate, economical and efficient service and to promote the conservation
15 of energy.

16 (b) Promote sound, economic conditions in transportation.

17 (c) Encourage the establishment and maintenance of reasonable rates for transportation ser-
18 vices, without unjust discriminations, undue preferences or advantages or unfair or destructive
19 competitive practices.

20 (d) Provide specific state action immunity against all antitrust claims and prosecution in those
21 instances when carriers lawfully develop, publish and charge rates relating to the transportation of
22 persons or household goods and joint line rates relating to the transportation of other property and
23 provide services specifically prescribed and subject to regulation by the Department of Transporta-
24 tion and in those instances when carriers lawfully engage in prior consultation for purposes de-
25 scribed in this paragraph.

26 (2) The volume of motor carrier traffic presents dangers and hazards on public highways and
27 make it imperative that:

28 (a) Stringent rules be employed, to the end that the highways may be rendered safe for the use
29 of the general public;

30 (b) The wear of such highways be controlled;

31 (c) A minimum of inconvenience to other users of the highways be effected;

32 (d) A minimum hindrance and stoppage to other users of the highways compatible with needs
33 of the public for adequate transportation service, be effected;

34 (e) The highways be safeguarded from improper or unnecessary usage;

35 (f) Operation by irresponsible persons or any other operation threatening the safety of the public
36 or detrimental to the general welfare be prevented;

37 (g) Congestion of traffic on the highways be minimized;

38 (h) The various transportation agencies of the state be adjusted and correlated so that public
39 highways may serve the best interest of the general public; and

40 (i) A method of assessing [*privilege*] taxes be provided to enable the further construction of
41 highways and to provide for the operation, preservation and maintenance of highways already built.

42 (3) The legislature hereby declares that to effect the ends and purposes listed in this section,
43 this chapter is adopted.

44 **SECTION 63.** ORS 825.020 is amended to read:

45 825.020. Except as otherwise provided in this section, this chapter does not apply to the persons

1 or vehicles described in this section. The provisions of ORS 825.100, 825.137, 825.139, 825.141,
 2 825.160, 825.164, 825.166, 825.168, 825.210 (1) and (3), [825.212,] 825.450, 825.454[, 825.470, 825.472,
 3 825.474, 825.476, 825.480, 825.484, 825.488, 825.490, 825.492, 825.494, 825.496, 825.498,] **and** 825.504[,
 4 825.506, 825.507, 825.508 and 825.515] apply to any of the following vehicles or combinations of ve-
 5 hicles with a combined weight of more than 26,000 pounds:

6 (1) Vehicles being used exclusively in the transportation of United States mail on a trip basis.

7 (2) Vehicles being used in the transportation of persons for hire, in vehicles with a seating ca-
 8 pacity of more than five persons, within a city and within three air miles of the city. When the
 9 three air mile radius extends into the corporate limits of another city, the two cities shall be con-
 10 sidered as one city for the purposes of this subsection. The following apply to this subsection:

11 (a) Service may also be provided to or from any area surrounding the area described under this
 12 subsection so long as the service does not compete with a carrier granted authority by the Depart-
 13 tment of Transportation under this chapter to operate in that surrounding area.

14 (b) Any vehicle exempt from the provisions of this chapter under this subsection is subject to
 15 regulation by the city or cities in which it is operated.

16 (3) Vehicles being used for the purpose of transporting persons or property in connection with
 17 the patrolling of forests for the prevention or fighting of forest fires.

18 (4) Vehicles being used in towing or otherwise transporting vehicles at the direction of a police
 19 officer or in servicing, towing or transporting wrecked or disabled vehicles, or in towing or trans-
 20 porting a replacement vehicle for such wrecked or disabled vehicle if the vehicle:

21 (a) Is not otherwise used in transporting goods and merchandise for compensation; and

22 (b) In the case of towing, is specially constructed for that use or has a combined weight not
 23 exceeding 8,000 pounds.

24 (5) Vehicles being used by a for-hire carrier to transport within this state free or at reduced
 25 rates:

26 (a) The carrier's officers, agents or employees, or dependent members of the families of those
 27 individuals, or the personal effects or household goods of those individuals.

28 (b) Ministers of religions, inmates of hospitals and individuals exclusively engaged in charitable
 29 and eleemosynary work.

30 (c) Indigent, destitute and homeless individuals and the necessary agents employed in the
 31 transportation.

32 (d) Witnesses attending legal investigations in which the carrier is interested.

33 (e) Persons injured in wrecks and physicians and nurses attending those persons.

34 (f) Persons providing relief in cases of general epidemic, pestilence or other emergency.

35 (g) Persons traveling under commuter, party or excursion passenger tickets, if available to all
 36 persons applying under like circumstances or conditions.

37 (h) Persons traveling under an exchange of passes between for-hire carriers.

38 (6) Vehicles being used to transport plants, artificial and natural flowers and accompanying
 39 florist accessories in movements originating at retail shops.

40 (7) Any vehicle used by a person licensed under ORS 508.235 while the person is transporting
 41 the person's own, unsold catch of fish from the point of landing to the first point where fish from
 42 the catch will be sold, placed in storage or processed in any way.

43 (8) Vehicles owned or operated by truck leasing companies operated empty over the public
 44 highways for the purpose of relocation of equipment. This exemption does not apply to motor vehi-
 45 cles operated empty as a result of or for the purpose of transporting passengers or property.

1 **SECTION 64.** ORS 825.022 is amended to read:

2 825.022. The provisions of ORS 825.104, 825.160, 825.450[,] **and** 825.454[, 825.470, 825.472, 825.474,
3 825.476, 825.480, 825.484, 825.488, 825.490, 825.492, 825.494, 825.496 and 825.515] do not apply to any
4 vehicle or combination of vehicles with a combined weight of 26,000 pounds or less.

5 **SECTION 65.** ORS 825.137 is amended to read:

6 825.137. (1) Certificates and permits when issued shall be valid until suspended or revoked when
7 the carrier is found by the Department of Transportation to be in violation of this chapter or ORS
8 chapter 818. A variance permit issued under ORS chapter 818 shall be valid for the length of time
9 for which it is issued unless prior to that time the permit is suspended or revoked by the Depart-
10 ment of Transportation for violation of this chapter or ORS chapter 818.

11 (2) Certificates or permits, or variance permits issued pursuant to ORS chapter 818, may be
12 suspended or canceled by the department based upon the department's own motion after notice and
13 hearing, when the certificate or permit holder:

14 (a) Or agents or employees of the holder have repeatedly violated this chapter or other highway
15 or motor laws of this state. In applying this paragraph the department may consider violations by
16 agents or employees of the holder that occurred prior to the time they became agents or employees
17 of the holder, but only if the agent or employee has a substantial interest or control, directly or
18 indirectly, in or over the operation of the holder.

19 (b) Has repeatedly violated or avoided any order or rule of the department.

20 (c) Is a transporter of persons or household goods and has repeatedly made unlawful rebates or
21 repeatedly underestimated transportation charges to clients.

22 (d) Has repeatedly refused or has repeatedly failed, after being requested to do so, to furnish
23 service authorized by certificate. The department in such cases may also, in the discretion of the
24 department, restrict the certificate to conform with operations conducted.

25 (e) Has not, except for reasons beyond the control of the holder, transported persons or house-
26 hold goods authorized by the certificate for a period exceeding 180 consecutive days immediately
27 preceding the filing of the complaint in the proceeding. The department in these cases may also, in
28 the discretion of the department, restrict the certificate to conform with operations performed that
29 were required by the public convenience and necessity.

30 (f) Has not, except for reasons beyond the control of the holder, transported property or persons
31 authorized by the permit for a period exceeding one year immediately preceding the filing of the
32 complaint in the proceeding.

33 (g) Has refused, or has failed, within the time provided, to file the annual report required by
34 ORS 825.320 or has failed or refused to maintain records required by the department or to produce
35 such records for examination within the time set by the department.

36 (h) Has failed to appear for hearing after notice that the certificate or permit is under investi-
37 gation.

38 (i) Has filed with the department an application which is false with regard to the ownership,
39 possession or control of the equipment being used or the operation being conducted.

40 (3) The department shall not suspend or revoke a certificate or permit of a vehicle or person
41 described in ORS 825.020 unless the person or vehicle is in violation of this section and ORS 825.139,
42 825.141, 825.160, 825.164, 825.166, 825.168, 825.210 (1) and (3), [825.212,] 825.450[,] **or** 825.454[, 825.470,
43 825.472, 825.474, 825.476, 825.480, 825.484, 825.488, 825.490, 825.492, 825.494, 825.496, 825.498, 825.504,
44 825.506, 825.507, 825.508 or 825.515].

45 **SECTION 66.** ORS 825.139 is amended to read:

1 825.139. (1) A certificate or permit is subject to suspension or cancellation, if the holder
2 thereof[.]

3 [(a)] is delinquent in reporting or paying any fees, taxes or penalties due the Department of
4 Transportation, whether imposed under this chapter, [or under] ORS chapter 826[; or] **or sections**
5 **1 to 40 of this 2005 Act.**

6 [(b) *Has refused or failed, within the time provided, to file a deposit or bond requested under ORS*
7 *825.506.*]

8 (2) A written 10-day notice of suspension shall be given to the certificate or permit holder and
9 unless a hearing is requested within such time, the certificate or permit shall be deemed suspended
10 without further notice or hearing until the report, payment, bond or deposit is filed with the de-
11 partment.

12 (3) Upon a written 10-day notice by the department, a certificate or permit may be suspended
13 or canceled for [*any of the reasons*] **the reason** set forth in subsection (1) of this section. If the
14 certificate or permit is suspended, the filing of the report, payment, bond or deposit will not rein-
15 state the authority until the suspension period has expired, except on order of the department.

16 **SECTION 67.** ORS 825.232 is amended to read:

17 825.232. (1) The Department of Transportation shall, by general order or otherwise, prescribe
18 and enforce rules in conformity with this chapter to better accomplish the enforcement of its pro-
19 visions, which shall cover and include for-hire carriers and private carriers and their operations.

20 (2) The department may make such subdivisions of the carriers, as classified in this chapter, as
21 in the opinion of the department may work to the efficient administration of this chapter and shall
22 do all things necessary to carry out and enforce its provisions.

23 (3) All rules made by the department pursuant to this chapter and filed in the office of the de-
24 partment have the force and effect of law.

25 (4) This section does not restrict the powers of the county courts or boards of county commis-
26 sioners under existing laws and amendments thereof.

27 (5) Without restricting the general powers conferred upon the department to prescribe and en-
28 force rules, the department is vested with special authority with respect to the matters listed in ORS
29 825.204[,] **and** 825.210 [*and 825.212*].

30 **SECTION 68.** ORS 825.354 is amended to read:

31 825.354. The Department of Transportation may appoint agents [*to issue temporary passes pro-*
32 *vided in ORS 825.470 and*] to collect any fees and taxes required by this chapter. The department
33 shall prescribe the duties and compensation of such agents and may require them to give bonds or
34 irrevocable letters of credit issued by an insured institution, as defined in ORS 706.008, in such
35 amount as the department determines appropriate, conditioned upon the faithful performance of their
36 duties.

37 **SECTION 68a.** ORS 825.450 is amended to read:

38 825.450. (1) [*Except as otherwise permitted under ORS 825.470,*] The Department of Transporta-
39 tion shall issue a receipt stating the combined weight of each self-propelled or motor-driven vehicle
40 and any train or combination of vehicles to be used therewith.

41 (2) The receipt shall be carried with the motor vehicle at all times, and no person shall load any
42 motor vehicle in excess of its combined weight permit rating thus determined except as variations
43 may necessarily result in passenger loading. A fee of \$8 shall be paid to the department for each
44 weight receipt issued.

45 (3) Receipts issued under this section shall be valid from the first day of any calendar quarter

1 to the last day of the fourth consecutive calendar quarter. Each carrier may select the calendar
2 quarter in which the period will begin except that, if necessary for administrative convenience, the
3 department may require a carrier to adopt a starting date chosen by the department.

4 (4) All vehicles operating under the carrier's authority shall have the same four-quarter period
5 of receipt validity. The department may allow a carrier to operate with expired receipts for up to
6 one extra quarter if the renewal application has been submitted and the required fees have been
7 paid on or before the last day of the period of validity of the receipt. The extension of time allowed
8 by this subsection shall be granted only if the department determines that the extension is necessary
9 for the administrative convenience of the department.

10 **SECTION 69. Sections 70 and 71 of this 2005 Act are added to and made a part of ORS**
11 **chapter 825.**

12 **SECTION 70. (1) Whenever practicable, and in any event no later than three years after**
13 **any report of taxes or fees is filed in accordance with this chapter, ORS chapter 826, the**
14 **International Registration Plan or the International Fuel Tax Agreement, the Department**
15 **of Transportation shall audit the report if the department deems such audit practicable. If**
16 **the department is not satisfied with the report filed or the amount of taxes or fees paid to**
17 **the state by any person, the department may, not later than four years after the report was**
18 **filed or the taxes or fees were paid, make a proposed assessment of additional taxes or fees**
19 **due from such person based upon any information available to the department. A late pay-**
20 **ment charge shall be added to each registration assessment, in a sum equal to 10 percent**
21 **of the amount of additional Oregon taxes or fees due.**

22 (2) Every additional assessment under subsection (1) of this section shall bear interest
23 at the rate of one percent per month, or fraction thereof, from the last day of the month
24 following the close of the month for which the additional assessment is imposed until paid.

25 (3) If the additional Oregon registration assessment imposed exceeds by at least five
26 percent but not more than 15 percent the amount of registration fees reported or paid, a
27 penalty of five percent of the amount of the additional assessment shall be added thereto in
28 addition to the 10 percent late payment charge provided in subsection (1) of this section.

29 (4) If the additional Oregon registration assessment imposed exceeds by more than 15
30 percent the amount of registration fees reported or paid, a penalty of 20 percent of the
31 amount of the additional assessment shall be added thereto in addition to the 10 percent late
32 payment charge provided in subsection (1) of this section.

33 (5) A penalty charge in the amount of 10 percent of the net assessment due shall be im-
34 posed on additional fuel tax assessments resulting from International Fuel Tax Agreement
35 assessment audits.

36 (6) The department shall give to the person concerned written notice of any additional
37 assessment.

38 (7) The department shall refund to any person the amount of any overpayment caused
39 by any incorrect report.

40 (8) Whenever the department has made an assessment pursuant to this section that has
41 become final pursuant to section 71 of this 2005 Act, the department may not reopen or re-
42 assess such taxes, interest or penalties unless the department is satisfied that the taxpayer
43 fraudulently or with intent to evade taxation destroyed, concealed or withheld any books,
44 accounts, papers, records or memoranda required to be maintained by the taxpayer pursuant
45 to this chapter, ORS chapter 826 or the rules of the department.

1 **SECTION 71.** (1) Any person against whom an assessment is made under section 70 of
2 this 2005 Act may petition the Department of Transportation for a reassessment within 30
3 days after service upon the person of notice. If a petition is not filed within the 30-day period,
4 the assessment becomes final and further appeal is waived. If a petition for reassessment is
5 filed within the 30-day period, the department shall reconsider the assessment and, if the
6 person has requested a hearing in the petition, shall grant such person a hearing and give
7 the person 10 days' notice of the time and place of the hearing. The department may con-
8 tinue the hearing from time to time as may be necessary. The decision of the department
9 upon a petition for reassessment shall become final 30 days after service of notice of the
10 decision upon the person concerned.

11 (2) The department may waive or reduce the late payment charge, penalty and interest
12 amounts under section 70 of this 2005 Act on such terms as the department considers proper
13 if request for waiver or reduction is filed within 30 days after service of notice of assessment
14 upon the person concerned, or as part of the pleas made in the department's reconsideration
15 of the assessment. Consideration of waiver or reduction of late payment, penalty and in-
16 terest charges on audits completed pursuant to the International Fuel Tax Agreement or the
17 International Registration Plan is contingent on authority granted by the appropriate
18 agreement.

19 (3) Every assessment made by the department under section 70 of this 2005 Act becomes
20 due and payable at the time the assessment becomes final. If the assessment is not paid to
21 the department when due and payable, there shall be added to the assessment a penalty of
22 10 percent of the amount of the tax or, in the case of registration fees, of the Oregon reg-
23 istration fees due.

24 (4) If any person who has requested a hearing pursuant to this section fails to withdraw
25 the petition for reassessment at least five days before the date of the hearing and fails to
26 appear at the scheduled hearing, the department may require such person to pay a charge
27 of \$150 in addition to any other fees, taxes and charges that may be imposed.

28 (5) A petition for reassessment under subsection (1) of this section or a request for
29 waiver or reduction under subsection (2) of this section is considered filed upon receipt of
30 the petition or request in the office designated by the department.

31 **SECTION 72.** ORS 825.500 is amended to read:

32 825.500. (1) Interest and penalties for delinquent payments of road use assessment fees payable
33 pursuant to the provisions of ORS 818.225 and of single-trip nondivisible load permits shall be cal-
34 culated in the same manner that interest and penalties are calculated **for registration fees** under
35 [ORS 825.490 and 825.494] **section 70 of this 2005 Act.**

36 (2) An audit conducted by the Department of Transportation pursuant to its authority under this
37 chapter may include an examination of records of the carrier pertaining to the road use assessment
38 fee imposed under ORS 818.225. If the audit shows that movement by a carrier exceeds the mileage
39 authorized by a single-trip nondivisible load permit, the department shall determine the amount of
40 the road use assessment fee that is due. The department shall collect the amount due and may im-
41 pose any penalties or additional assessments authorized by this chapter for delinquent payment of
42 taxes.

43 **SECTION 73.** ORS 825.504 is amended to read:

44 825.504. (1) If any tax, or fee in lieu of tax, reported due, or any final assessment made by the
45 Department of Transportation under [ORS 825.490, 825.494 and 825.496] **section 70 or 71 of this**

1 **2005 Act**, including any penalties or charges therein imposed, or any final penalty imposed under
 2 ORS 825.950, 825.955 or 825.960, is not paid in full, the department may issue a warrant under the
 3 department's official seal directed to the sheriff of any county of the state commanding the sheriff
 4 to levy upon and sell the real and personal property of the taxpayer found within that county, for
 5 payment of the amount thereof, with the added penalties or charges, interest and the cost of exe-
 6 cuting the warrant, and to return such warrant to the department and pay to the department the
 7 money collected by virtue thereof by a time to be specified therein, not less than 60 days from the
 8 date of the warrant.

9 (2) The sheriff shall, within five days after the receipt of the warrant, record with the clerk of
 10 the county a copy thereof, and thereupon the clerk shall enter in the County Clerk Lien Record the
 11 name of the taxpayer mentioned in the warrant, and the amount of the tax or portion thereof and
 12 penalties or charges for which the warrant is issued and the date when such copy is recorded.
 13 Thereupon the amount of the warrant so recorded shall become a lien upon the title to and interest
 14 in property of the taxpayer against whom it is issued in the same manner as a judgment that creates
 15 a judgment lien under ORS chapter 18.

16 (3) The sheriff thereupon shall proceed upon the same in all respects, with like effect and in the
 17 same manner prescribed by law in respect to executions issued against property upon judgment of
 18 a court of record, and shall be entitled to the same fees for services in executing the warrant, to
 19 be added to and collected as a part of the warrant liability.

20 (4) In the discretion of the Department of Transportation, a warrant of like terms, force and
 21 effect to levy upon funds of the taxpayer in possession of the Department of Revenue may be issued
 22 and directed to any agent authorized by the Department of Transportation to collect taxes payable
 23 under this chapter, and in the execution thereof the agent shall have all of the powers conferred
 24 by law upon sheriffs but is entitled to no fee or compensation in excess of actual expenses paid in
 25 the performance of such duty.

26 (5) The procedures authorized by this section may also be used for collection of any fees and
 27 penalties imposed on persons registering vehicles under ORS chapter 826.

28 **SECTION 74.** ORS 825.515 is amended to read:

29 825.515. *[(1) Every for-hire carrier and private] **Every motor** carrier shall keep daily records[,
 30 upon forms prescribed by the Department of Transportation,] of all vehicles used [during the current
 31 month].*

32 *[(2) On or before the last day of the month following, except as otherwise permitted under ORS
 33 825.492, they shall certify to the department, upon forms prescribed therefor, the true and correct sum-
 34 maries of their daily records which shall show the extreme miles traveled in this state during the pre-
 35 ceding month, the amount of fuel tax paid to the state during the preceding month, and such other
 36 information as the department may require.]*

37 *[(3)]* The daily records shall be kept on file in the office of the **motor** carrier and thereafter
 38 preserved *[until written permission for their destruction is given by the department]* **for four years.**

39 **SECTION 75.** ORS 825.517 is amended to read:

40 825.517. (1) The following are not public records unless the public interest requires disclosure
 41 in the particular instance:

42 (a) Reports from motor carriers required to be filed with the Department of Transportation in
 43 connection with the imposition or collection of any tax **or fee.**

44 (b) Information collected by the department from a motor carrier for the purpose of conducting
 45 a tax **or fee** audit.

1 (2) A motor carrier to whom the information pertains, or a person who has written permission
2 from the carrier, may inspect information described in subsection (1) of this section.

3 (3) The department, upon request or as required by law, shall disclose information from the re-
4 cords described in subsection (1) of this section to a government agency for use in carrying out its
5 governmental functions.

6 **SECTION 76.** ORS 826.005 is amended to read:

7 826.005. (1) The Department of Transportation may enter into agreements with the duly au-
8 thorized representatives of any jurisdiction that issues registration to establish reciprocal privileges
9 or registration exemptions for vehicles as described in this section. An agreement entered into by
10 the department under the authority granted by this section may establish exemptions from propor-
11 tional registration fees.

12 (2) An agreement shall only grant the privileges, benefits and exemptions to a vehicle or the
13 registrant of a vehicle if the vehicle is any of the following:

14 (a) Registered in the jurisdiction where the person registering the vehicle has a legal residence.

15 (b) A commercial vehicle registered in a jurisdiction where the commercial enterprise in which
16 the vehicle is used has a place of business. To qualify under this paragraph, the vehicle must be
17 assigned to the place of business and the place of business must be the place from which or in which
18 the vehicle is most frequently dispatched, garaged, serviced, maintained, operated or otherwise
19 controlled.

20 (c) A commercial vehicle registered in a jurisdiction where the vehicle has been registered be-
21 cause of an agreement between two jurisdictions or a declaration issued by any jurisdiction.

22 (3) An agreement shall retain the right of the department to make the final determination as to
23 the proper place of registration of a vehicle when there is a dispute or doubt concerning the proper
24 place of registration. An agreement shall retain the right of the department to confer with the de-
25 partments of other jurisdictions affected when making a determination under this subsection.

26 (4) An agreement shall not provide for any benefit, exemption or privilege with respect to fuel
27 taxes, use fuel taxes, **diesel fuel taxes**, weight mile taxes or any other fees or taxes levied or as-
28 sessed against the use of highways or use or ownership of vehicles except registration taxes, fees
29 and requirements.

30 (5) An agreement must provide that any vehicle registered in this state will receive a similar
31 kind or degree of exemptions, benefits and privileges when operated in another jurisdiction that is
32 party to the agreement as vehicles registered in the other jurisdiction receive when operated in this
33 state.

34 (6) An agreement, in the judgment of the department, shall be in the best interest of this state
35 and its citizens, shall be fair and equitable to this state and its citizens and shall be determined on
36 the basis and recognition of benefits that accrue to the economy of this state from the uninterrupted
37 flow of commerce.

38 (7) An agreement may authorize a vehicle that would otherwise be required to be registered in
39 one jurisdiction to be registered in another jurisdiction without losing any benefit, exemption or
40 privilege under the agreement if the vehicle is operated from a base located in the other jurisdiction.

41 (8) An agreement may allow the lessee or lessor of a vehicle, subject to the terms and conditions
42 of the lease, to receive benefits, exemptions and privileges under the agreement.

43 (9) An agreement may authorize the department to suspend or cancel any exceptions, benefits
44 or privileges granted to any person under the agreement if the person violates any of the terms or
45 conditions of the agreement or violates any law or rule of this state relating to vehicles.

1 (10) All agreements shall be in writing and filed with the department within 10 days after exe-
 2 cution or the effective date of the agreement, whichever is later.

3 (11) An agreement may be a limited type agreement with any state bordering this state as de-
 4 scribed in this subsection. An agreement described under this subsection is subject to all of the
 5 following:

6 (a) The benefits, exemptions and privileges under the agreement shall only be extended to ve-
 7 hicles or a class of vehicles as specified in the agreement.

8 (b) The agreement shall be applicable only within an area in each state that is situated along
 9 the boundary between the states and that is substantially equal in size.

10 (c) The usage permitted of the vehicles in the two areas shall be as substantially equal as may
 11 be practicable.

12 (d) The areas and usage subject to the agreement shall be described in the agreement.

13 (e) Proportional registration shall not be required under the agreement.

14 (f) The agreement shall comply with other mandatory provisions of this section and may contain
 15 any other provisions described under this section.

16 (g) A vehicle operating under the agreement may be required to obtain a permit under ORS
 17 803.610.

18 (12) An agreement may require the display or submission of evidence of registration for any
 19 vehicle operating under the agreement.

20 **SECTION 77.** ORS 826.007 is amended to read:

21 826.007. The Department of Transportation may enter into agreements with the duly authorized
 22 representatives of any jurisdiction that issues out-of-state registration to provide for proportional
 23 registration of vehicles and for the apportionment of registration fees and other fixed fees and taxes
 24 on vehicles proportionally registered in this state and the other jurisdiction. All of the following
 25 apply to an agreement established under authority granted by this section:

26 (1) An agreement may provide proportional registration only for commercial vehicles that are
 27 engaged in interjurisdictional commerce or combined interjurisdictional and intrajurisdictional
 28 commerce.

29 (2) An agreement may provide for proportional registration for vehicles individually or in fleets
 30 but must comply with the requirements for proportional registration under ORS 826.009 for all pro-
 31 portionally registered vehicles and with the requirements under ORS 826.011 for all proportionally
 32 registered fleets.

33 (3) An agreement may include provisions necessary to facilitate the administration of propor-
 34 tional registration.

35 (4) Any apportionment of registration fees and other fixed vehicle fees or taxes may be made
 36 on a basis commensurate with and determined on the miles traveled on and use made of the high-
 37 ways of this state as compared with the miles traveled on and use made of other jurisdictions'
 38 highways, or may be made on any other equitable basis of apportionment.

39 (5) No agreement shall contain any provision that requires a vehicle to be proportionally regis-
 40 tered if the vehicle is:

41 (a) Registered by this state;

42 (b) Operating in this state under any vehicle permit that allows operation of an unregistered
 43 vehicle; or

44 (c) Legally operated in this state under an exemption provided under ORS 803.305.

45 (6) Nothing in an agreement shall affect the right of the department to adopt rules as described

1 in this subsection. The department may adopt any rules the department deems necessary to
2 effectuate and administer the provisions of the agreement.

3 (7) An agreement shall only provide for proportional registration of vehicles if the vehicle is any
4 of the following:

5 (a) Registered in the jurisdiction where the person registering the vehicle has a legal residence.

6 (b) Registered in a jurisdiction where the commercial enterprise in which the vehicle is used
7 has a place of business where the vehicle has been assigned and from which or in which the vehicle
8 is most frequently dispatched, garaged, serviced, maintained, operated or otherwise controlled.

9 (c) Registered in a jurisdiction where the vehicle has been registered because of an agreement
10 between two jurisdictions or a declaration issued by any jurisdiction.

11 (8) An agreement shall retain the right of the department to make the final determination as to
12 the proper place of registration of a vehicle when there is a dispute or doubt concerning the proper
13 place of registration. An agreement shall retain the right of the department to confer with the de-
14 partments of other jurisdictions affected when making a determination under this subsection.

15 (9) An agreement may provide that the department may deny any person further benefits under
16 the agreement until all fees or taxes have been paid if the department determines that the person
17 should have proportionally registered more vehicles in this state or paid additional fees or taxes on
18 vehicles proportionally registered in this state.

19 (10) An agreement may provide for arrangements with agencies of this state or other jurisdic-
20 tions for joint audits of registrants of proportionally registered vehicles and for the exchange of
21 audit information on persons who have proportionally registered vehicles.

22 (11) An agreement may authorize a vehicle that would otherwise be required to be registered
23 in one jurisdiction to be registered in another jurisdiction without losing any benefits under the
24 agreement if the vehicle is operated from a base located in the other jurisdiction.

25 (12) An agreement may allow the lessee or lessor of a vehicle, subject to the terms and condi-
26 tions of the lease, to receive benefits of proportional registration under the agreement.

27 (13) An agreement may authorize the department to suspend or cancel any benefits under the
28 agreement if the person violates any of the terms or conditions of the agreement or violates any law
29 or rule of this state relating to vehicles.

30 (14) All agreements shall be in writing and shall be filed with the department within 10 days
31 after execution or the effective date of the agreement, whichever is later.

32 (15) Vehicles that are proportionally registered under an agreement, whether individually or in
33 a fleet, are fully registered in this state for purposes of ORS 803.300 and any other portion of the
34 vehicle code and are accorded the same privileges and duties as other vehicles registered in this
35 state even though the vehicle may have primary registration in some other jurisdiction. This sub-
36 section does not grant authority required for intrastate movement where such authority is required
37 under ORS chapter 825. Such authority must be granted in accordance with ORS chapter 825.

38 (16) An agreement may only provide the benefits of proportional registration to a vehicle that
39 is registered either proportionally or otherwise in at least one other jurisdiction in addition to this
40 one.

41 (17) Nothing in an agreement shall affect the right of the department to act under this sub-
42 section. The department may refuse to issue proportional registration in this state for vehicles from
43 jurisdictions that do not grant similar privileges for vehicles from this state.

44 (18) An agreement shall not provide for any benefit, exemption or privilege with respect to fuel
45 taxes, use fuel taxes, **diesel fuel taxes**, weight mile taxes or any other fees or taxes levied or as-

1 sessed against the use of highways or use or ownership of vehicles except registration taxes, fees
2 and requirements.

3 (19) An agreement may control the requirements for type, manner of display, number and other
4 provisions relating to registration plates, registration cards or other proof of registration for vehi-
5 cles that are subject to the agreement.

6 **SECTION 78.** ORS 826.031 is amended to read:

7 826.031. (1) **A motor carrier as defined in ORS 825.005 that is** the owner of a vehicle that
8 *[is subject to the tax imposed under ORS 825.474]* **weighs 26,001 pounds or more** and that is not
9 registered under the proportional registration provisions of this chapter and is not registered in any
10 other jurisdiction shall register the vehicle with the Department of Transportation if the vehicle is
11 to be operated in this state. Registration under this section is in lieu of registration under ORS
12 chapter 803.

13 (2) The department shall determine the form of application for registration and renewal of reg-
14 istration and may require any information that it determines necessary to facilitate the registration
15 process.

16 (3) A vehicle registered under this section is subject to the insurance requirements of ORS
17 825.160 and not to the financial responsibility requirements of ORS chapter 806. Certification of
18 compliance with financial responsibility requirements as specified in ORS 803.460 is not required for
19 renewal of registration of a vehicle under this section.

20 (4) A vehicle registered under this section shall be deemed to be fully registered in this state
21 for any type of movement or operation, except that in those instances in which a grant of authority
22 is required for intrastate movement or operation, no such vehicle shall be operated in intrastate
23 commerce in this state unless the owner thereof has been granted intrastate authority or right by
24 the department and unless the vehicle is being operated in conformity with such authority and
25 rights.

26 (5) A vehicle may be registered under this section prior to a certificate of title being issued for
27 the vehicle but nothing in this section affects any requirement that a certificate of title be issued.

28 **SECTION 79.** (1) **Upon the request of the Department of Transportation, the Department**
29 **of State Police shall furnish to the authorized staff of the Department of Transportation any**
30 **information about an applicant for a license under section 13 of this 2005 Act that the De-**
31 **partment of State Police may have in its possession from its central bureau of criminal**
32 **identification, including but not limited to manual or computerized criminal offender infor-**
33 **mation.**

34 (2)(a) **If the background investigation conducted under subsection (1) of this section does**
35 **not disclose any activity that would disqualify an applicant from becoming a diesel fuel**
36 **licensee pursuant to section 15 of this 2005 Act, the Department of State Police shall conduct**
37 **nationwide criminal records checks of the applicant through the Federal Bureau of Investi-**
38 **gation by use of the applicant's fingerprints and shall report the results to the authorized**
39 **staff of the Department of Transportation, who must be specifically authorized to receive the**
40 **information.**

41 (b) **The Federal Bureau of Investigation shall return the fingerprint cards used to con-**
42 **duct the criminal records checks and shall not keep any record of the fingerprints. However,**
43 **if the policy of the Federal Bureau of Investigation authorizing return of the fingerprint**
44 **cards is changed, the Department of State Police shall cease to send the cards to the Federal**
45 **Bureau of Investigation but shall continue to process the information through other avail-**

1 able resources.

2 (c) When the Federal Bureau of Investigation returns the fingerprint cards to the De-
 3 partment of State Police, the Department of State Police shall maintain the fingerprint cards
 4 in its files.

5 (3) For purposes of requesting and receiving the information and data described in sub-
 6 sections (1) and (2) of this section, the Department of Transportation is a designated agency
 7 for purposes of ORS 181.010 to 181.560 and 181.715 to 181.730.

8 **SECTION 80.** (1) All diesel fuel held by a person required to be licensed under section 11
 9 of this 2005 Act on the effective date of section 2 of this 2005 Act on which no tax has been
 10 paid shall be subject to a one-time inventory tax. Persons subject to the inventory tax shall:

11 (a) Take an inventory of all undyed diesel fuel in their possession to determine the
 12 number of gallons held in storage on the effective date of section 2 of this 2005 Act;

13 (b) File a report with the Department of Transportation showing the number of gallons
 14 held in storage; and

15 (c) Pay a tax not more than 30 days after the inventory date based upon the number of
 16 gallons held in storage multiplied by the tax rate specified in section 2 of this 2005 Act.

17 (2) In determining the amount of tax due under this section, an amount may be excluded
 18 that represents the level of undyed diesel fuel that cannot be pumped out of the tank because
 19 the fuel is below the mouth of the draw pipe. For this purpose, 200 gallons may be deducted
 20 for storage tanks with a capacity of 10,000 gallons or less and 400 gallons may be deducted
 21 for tanks with a capacity exceeding 10,000 gallons.

22 **SECTION 81.** The Department of Transportation shall forecast the amount of revenue
 23 that will be generated by the tax rate established by section 2 of this 2005 Act and the reg-
 24 istration fees established by the amendments to ORS 803.420 (10) by section 55 of this 2005
 25 Act for the period July 1, 2006, to January 1, 2007. If actual revenues from the tax and reg-
 26 istration fees for the period July 1, 2006, to January 1, 2007, are more than five percent
 27 higher or lower than the amount forecast, then notwithstanding ORS 171.130, the Governor
 28 shall submit a proposal to the Legislative Assembly by March 1, 2007, to adjust the tax rate
 29 or registration fees or both. The purpose of the adjustment shall be to ensure that vehicles
 30 weighing more than 26,000 pounds are paying their appropriate share of highway costs as
 31 determined by the highway cost allocation study under ORS 366.506.

32 **SECTION 82.** Section 81 of this 2005 Act is repealed on January 2, 2008.

33 **SECTION 83.** (1) Notwithstanding the repeal of ORS 825.490, 825.494 and 825.496 by section
 34 84 of this 2005 Act, the Department of Transportation may follow the provisions of ORS
 35 825.490 (2003 Edition), 825.494 (2003 Edition) and 825.496 (2003 Edition) for the purpose of au-
 36 auditing carriers and collecting taxes, interest, penalties and other liabilities due to the de-
 37 partment that have accrued prior to the effective date of section 84 of this 2005 Act.

38 (2) This section is repealed on January 2, 2010.

39 **SECTION 84.** ORS 825.212, 825.470, 825.472, 825.474, 825.476, 825.480, 825.482, 825.484,
 40 825.486, 825.488, 825.490, 825.492, 825.494, 825.496, 825.502, 825.506, 825.507 and 825.550 are re-
 41 pealed.