

1 Mileage Based User Fee Proposal

2

3 Sec. __. 23 V.S.A. chapter 43 is added to read:

4 CHAPTER 43. MILEAGE BASED USER FEE

5 § 4301. PURPOSE

6 The purpose of this chapter is to impose a mileage-based user fee for battery
7 electric vehicle pleasure cars that is approximately equivalent to the average
8 amount collected by the State in fuel tax revenue from the use of a non-plug-in
9 electric vehicle pleasure cars registered in Vermont and the combined amount
10 of the electric vehicle infrastructure fee and fuel tax revenue collected by the
11 State for the use of a plug-in hybrid electric vehicle pleasure car.

12 § 4302. DEFINITIONS

13 As used in this chapter:

14 (1) “Account manager” means a person that the Agency of
15 Transportation or Department of Motor Vehicles contracts with to administer
16 and manage the mileage-based user fee.

17 (2) “Annual vehicle miles traveled” means the total number of miles that
18 a BEV is driven during the mileage reporting period.

19 (3) “BEV” means a battery electric vehicle pleasure car.

20 (4) “Mileage-based user fee” means the fee charged for the annual
21 vehicle miles traveled by a BEV pursuant to section 4302 of this chapter.

1 (5) “Mileage-based user fee rate” means the per-mile usage fee charged
2 to the owner or lessee of a BEV pursuant to 23 V.S.A. § 4302 of this chapter.

3 (6) “Mileage reporting period” means the time between annual
4 inspections or the time between the most recent annual inspection and a
5 terminating event.

6 (7) “Terminating event” means either the registering of a BEV that had
7 been registered in Vermont in a different state or a change in ownership or
8 lesseeship of a BEV, or both.

9 § 4302. MILEAGE-BASED USER FEE; ASSESSMENT; CALCULATION;

10 PAYMENT; EXEMPTIONS

11 (a) Assessment of mileage-based user fee.

12 (1) The Commissioner shall, for each BEV registered in Vermont,
13 calculate pursuant to subsection (c) of this section a mileage-based user fee
14 within 14 days after the conclusion of the BEV’s mileage reporting period.

15 (2) As soon as practicable after calculating the amount of the mileage-
16 based user fee due for a BEV, the Commissioner shall mail to the registered
17 owner or lessee of the BEV a statement of the amount of the mileage-based
18 user fee assessed pursuant to this section.

19 (3) The mileage-based user fee assessed pursuant to this section shall be
20 in addition to any other fees and taxes imposed by this title.

1 (b) Payment of mileage-based user fee.

2 (1) Not more than 45 days after a mileage-based user fee assessment is
3 mailed pursuant to subsection (a) of this section, the owner or lessee of the
4 BEV shall:

5 (A) remit the full amount of the mileage-based user fee to the
6 Commissioner; or

7 (B) enter into an agreement with the Commissioner to pay the
8 amount of the mileage-based user fee in quarterly or monthly installments.

9 (c) Calculation of the mileage-based user fee. For mileage reporting
10 periods commencing in calendar year 2027, the Commissioner shall calculate
11 the mileage-based user fee at the rate of \$0.014 per mile traveled by each BEV
12 during its mileage reporting period. The number of miles traveled shall be
13 equal to the difference between the mileage shown on the BEV's odometer at
14 the end of the mileage reporting period and the mileage shown on the BEV's
15 odometer at the beginning of the mileage reporting period.

16 (d) Annual adjustment of mileage-based user fee rate. Beginning on
17 January 1, 2028, and on each succeeding January 1, the mileage-based user fee
18 rate shall be increased by the percentage change in the National Highway
19 Construction Cost Index, or successor index, for the year ending on September
20 30 of the preceding calendar year. If the percentage change in the National

1 Highway Construction Cost Index, or successor index, is zero or negative, the
2 rate per mile shall remain the same as in the preceding year.

3 (e) Exemptions. [PLACEHOLDER]

4 § 4303. REPORTS

5 (a) Upon completion of an inspection of a BEV pursuant to section 1222 of
6 this title, an inspection mechanic shall report the mileage shown on the BEV's
7 odometer to the Department in the manner required by the Commissioner.

8 (b) Upon the occurrence of a terminating event, the owner or lessee of a
9 BEV shall report the mileage shown on the BEV's odometer at the time of the
10 terminating event to the Department in the manner required by the
11 Commissioner.

12 § 4304. FAILURE TO FILE REPORT OR PAY FEE WHEN DUE;

13 PENALTY

14 (a) Late fee. Any person who fails to file a report as required by this
15 chapter shall be assessed an administrative penalty of \$10.00.

16 (b) Interest; penalty.

17 (1) Any person who fails to pay the mileage-based user fee when due,
18 shall owe, in addition to the mileage-based user fee, interest calculated at one
19 and one-half percent per month on the amount of the mileage-based user fee
20 that remains unpaid.

1 (2) For amounts that remain unpaid for more than 30 days, a penalty
2 equal to five percent of the outstanding mileage-based user fee due shall be
3 assessed for each month until the mileage-based user fee has been paid in full.
4 The penalty imposed pursuant to this subdivision shall not exceed 25 percent
5 of the amount of the mileage-based user fee for the BEV that was assessed
6 pursuant to subsection 4302(a) of this chapter.

7 (3) The Commissioner may waive some or all of the interest and
8 penalties required pursuant to this subsection if the Commissioner determines
9 that the delay in payment was due to excusable neglect.

10 § 4305. FAILURE TO FILE REPORT; PENALTY RATE

11 If the Commissioner is unable to determine the annual vehicle miles
12 traveled for a BEV because a person failed to file a report required by section
13 4303 of this chapter, the Commissioner shall calculate the mileage-based user
14 fee for the BEV based on the 98th percentile of the miles traveled by BEVs
15 registered in Vermont during mileage reporting periods ending in the
16 preceding calendar year.

17 § 4306. REGISTRATION; SUSPENSION OR REFUSAL

18 (a) Suspension of registration. The Commissioner may suspend or refuse
19 to renew the registration of a BEV if the Commissioner determines, following
20 notice and an opportunity for a hearing as provided pursuant to subsection (b)
21 of this section, that the owner or lessee of the BEV:

1 (1) failed to file a report required pursuant to section 4303 of this
2 chapter;

3 (2) filed a report containing an intentional misrepresentation,
4 misstatement, or omission of material information required by this chapter; or

5 (3) is delinquent at the time of renewal in the payment amount due
6 pursuant to the provisions of this chapter.

7 (b) Notice and opportunity for hearing. The Commissioner shall provide
8 the owner or lessee of a BEV with not less than 15 days' notice of the intent to
9 suspend or not to renew the registration of the BEV pursuant to the provisions
10 of this section. The owner or lessee shall be provided with the opportunity for
11 a hearing and shall be permitted to be represented by counsel at the hearing.

12 § 4307. RECORDS; INSPECTION

13 (a) Records; retention. Each owner or lessee of a BEV shall keep and retain
14 for a period of not less than three years any records required by the
15 Commissioner that are reasonably necessary to substantiate the reports
16 required pursuant to section 4303 of this chapter.

17 (b) Audits.

18 (1) The Commissioner or the Commissioner's agents may examine the
19 records of an owner or lessee upon not less than four days' notice to verify the
20 truth and accuracy of any statement or report made pursuant to the provisions

1 of this chapter or to determine if the mileage-based user fee imposed pursuant
2 to this chapter has been paid.

3 (2) If the records of a nonresident owner or lessee are not available for
4 examination in this State, the Commissioner may request that the nonresident
5 owner or lessee provide to the Commissioner the records that the
6 Commissioner reasonably requires. If the owner or lessee is unable or
7 unwilling to comply with the request, the Commissioner may charge the owner
8 or lessee a reasonable per diem fee and expenses for the Commissioner’s agent
9 to examine the records out-of-state, which shall be payable within 30 days after
10 the mailing of a bill by the Commissioner.

11 § 4308. POWERS OF THE COMMISSIONER

12 (a) General authority. The Commissioner shall have the authority to
13 administer and enforce the provisions of this chapter.

14 (b) Additional powers. In addition to any powers or authority specifically
15 granted to the Commissioner pursuant to the provisions of this chapter, the
16 Commissioner may do the following:

17 (1) Adopt rules pursuant to 3 V.S.A. chapter 25 as the Commissioner
18 determines necessary to administer and enforce the provisions of this chapter.

19 (2) Prescribe forms appropriate to the purposes of this chapter.

20 (3) Contract with an account manager to administer and manage the
21 mileage-based user fee.

1 (4) With the approval of the Governor and Secretary, enter into
2 agreements with other states, the District of Columbia, and Canadian
3 provinces, providing for the reciprocal enforcement of mileage-based user fee
4 or tax laws imposed by the jurisdictions entering into such an agreement,
5 which agreement may empower a duly authorized officer of any contracting
6 jurisdiction that extends such authority to officers or employees of this State, to
7 sue for the collection of that state’s or province’s mileage-based user fee or
8 taxes in the courts of this State.

9 (5) Hold hearings, cause depositions to be taken, administer oaths, and
10 examine under oath any person relating to any matter under this chapter.

11 (6) Compel the attendance of witnesses and order the production of any
12 relevant books, records, papers, accounts, or other documents of any person the
13 Commissioner has reason to believe is liable for the payment of a mileage-
14 based user fee or of any person believed to have information pertinent to any
15 matter under investigation by the Commissioner at any hearing held under this
16 chapter. The fees for travel and attendance of witnesses summoned or used by
17 the Commissioner and fees for officers shall be the same as for witnesses and
18 officers before a court and shall be paid by the State upon presentation of
19 proper bills of cost to the Commissioner of Finance and Management, but no
20 fees or expenses shall be payable to a witness charged with liability for
21 reporting or paying a mileage-based user fee.

1 (c) Examinations under oath. Any examination under oath conducted by
2 the Commissioner may, at the Commissioner’s discretion, be reduced to
3 writing, and intentional false testimony shall be deemed perjury and be
4 punishable as such.

5 (d) Compulsory process. Upon application of the Commissioner, a
6 superior judge may compel the attendance of witnesses, the giving of
7 testimony, and the production of any books, records, papers, vouchers,
8 accounts, or documents before the Commissioner in the same manner, to the
9 same extent, and subject to the same penalties as if before a Superior Court.

10 § 4306. PROCEEDINGS TO RECOVER UNPAID AMOUNTS

11 (a) Civil enforcement actions. Whenever any person fails to pay the
12 mileage-based user fee, penalty, or interest due under this chapter, the Attorney
13 General shall, upon the request of the Commissioner, enforce the payment on
14 behalf of the State in any court of the State or of any other state of the United
15 States or of any province of Canada.

16 (b) Liens. The remedy for the collection of taxes provided by 32 V.S.A.
17 § 9811(b) shall be available to the Commissioner as an additional or alternate
18 remedy for collection of amounts due under this chapter. The Commissioner
19 may issue a warrant directed to a law enforcement officer who may exercise
20 throughout the State the same powers granted to a sheriff in the sheriff’s
21 county.

1 (c) Private collection agencies. The Commissioner is authorized to
2 contract with private collection agencies for collection of amounts due
3 pursuant to the provisions of this chapter on persons who have failed to pay
4 after reasonable notification of the amount due. The Commissioner may agree
5 to pay collection agencies a fixed rate for services rendered or a percentage of
6 the amount actually collected by the agencies and remitted to the State.
7 Notwithstanding 32 V.S.A. § 502, the Commissioner may charge against the
8 collections an agreed-upon fixed rate or percentage of collections.

9 § 4307. JUDICIAL REVIEW

10 (a) Notice of appeal. An aggrieved person may appeal any final decision,
11 order, or finding of the Commissioner under this chapter pursuant to Rule 74
12 of the Vermont Rules of Civil Procedure. The appeal shall be to the
13 Washington Superior Court or, in the discretion of the appellant, to the
14 Superior Court in the county where the appellant resides or has a principal
15 place of business.

16 (b) Exclusivity of remedy. The appeal provided by this section shall be the
17 exclusive remedy available to any person for review of a final decision of the
18 Commissioner under this chapter.