

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 to ensure that battery electric vehicles contribute
8 to the Transportation Fund in an amount that reflects the annual miles traveled
9 by each vehicle.

10 § 4302. DEFINITIONS

11 As used in this chapter:

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

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

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

18 (4) “Mileage-based user fee” means the fee charged for the annual
19 vehicle miles traveled by a BEV pursuant to section 4303 of this chapter.

20 (5) “Mileage-based user fee rate” means the per-mile usage fee charged
21 to the owner or lessee of a BEV pursuant to section 4303 of this chapter.

1 (6) “Mileage reporting period” means:

2 (A) the time period between annual inspections;

3 (B) the time period between the most recent annual inspection and a
4 terminating event; or

5 (C) with respect to a pay-as-you-go mileage-based user fee program
6 established pursuant to subsection 4303(b) of this chapter, the time period
7 between a required report of the mileage shown on the BEV’s odometer and
8 the most recent prior required report.

9 (7) “Terminating event” means any of the following:

10 (A) the registering of a BEV that had been registered in Vermont in a
11 different state;

12 (B) a change in ownership or lesseeship of a BEV; or

13 (C) the termination of a BEV’s registration.

14 § 4303. MILEAGE-BASED USER FEE; ASSESSMENT; CALCULATION;
15 PAYMENT; EXEMPTIONS

16 (a) Annual mileage-based user fee.

17 (1) Except as otherwise provided pursuant to subsections (b) and (c) of
18 this section, the Commissioner shall, for each BEV registered in Vermont,
19 calculate pursuant to subsection (d) of this section a mileage-based user fee
20 within 14 days after the conclusion of the BEV’s mileage reporting period.

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

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

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

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

12 (b) Pay-as-you-go option.

13 (1) The Commissioner may, in the Commissioner's sole discretion,
14 establish a pay-as-you-go mileage-based user fee program that BEV owners
15 and lessees may opt into in lieu of paying an annual mileage-based user fee
16 pursuant to subsection (a) of this section.

17 (2) Owners and lessees that opt into the pay-as-you-go mileage-based
18 user fee program shall report the mileage shown on the odometer of the owner
19 or lessee's BEV at times and in a manner required by the Commissioner.

20 (3) As soon as practicable after receiving the report, the Commissioner
21 shall calculate pursuant to subsection (d) of this section the applicable mileage-

1 based user fee due for the BEV and mail to the registered owner or lessee of
2 the BEV a statement of the amount of the mileage-based user fee assessed.

3 (4) The owner or lessee of the BEV shall remit the full amount due to
4 the Commissioner within not more than 30 days after the assessment is mailed.

5 (5)(A) Following each annual inspection for a BEV enrolled in the pay-
6 as-you-go mileage-based user fee program, the Commissioner shall determine
7 if the actual miles traveled by the BEV since its last annual inspection were
8 greater than or less than the miles reported by the owner or lessee during that
9 time period.

10 (B) If the actual mileage was less than the amount reported, the
11 owner or lessee of the BEV shall receive a credit equal to the difference
12 between the mileage reported and the actual miles traveled multiplied by the
13 rate established pursuant to subsection (e) of this section. The credit shall be
14 applied to reduce the next amount due from the owner or lessee pursuant to
15 subdivision (3) of this subsection (b).

16 (C) If the actual mileage was greater, the owner or lessee of the BEV
17 shall be assessed an amount equal to the difference between actual miles
18 traveled and the mileage reported multiplied by the rate established pursuant to
19 subsection (e) of this section. That amount shall added to the next amount due
20 from the owner or lessee pursuant to subdivision (3) of this subsection (b).

1 (c) Mileage-based user fee for newly registered vehicles.

2 (1) The owner or lessee of a BEV that is being registered in Vermont for
3 the first time shall be assessed upon registration of the BEV a mileage-based
4 user fee equal to the rate established pursuant to subsection (e) of this section
5 multiplied by the average annual vehicle miles traveled by pleasure cars
6 registered in Vermont.

7 (2) The fee shall be paid as provided pursuant to subdivision (a)(3) of
8 this section.

9 (3)(A) Upon completion of the first mileage reporting period for the
10 BEV, the Commissioner shall determine if the actual miles traveled by the
11 BEV during the mileage reporting period were greater than or less than the
12 mileage that the fee assessed pursuant to subdivision (1) of this subsection was
13 based on.

14 (B) If the actual mileage was less, the owner or lessee of the BEV
15 shall receive a credit equal to the difference between the mileage that the fee
16 assessed pursuant to subdivision (1) of this subsection (c) was based on and the
17 actual miles traveled multiplied by the rate established pursuant to subsection
18 (e) of this section. The credit shall be applied to reduce the amount of the next

1 mileage-based user fee for the BEV that is assessed pursuant to subsection (a)
2 or (b) of this section.

3 (C) If the actual mileage was greater, the owner or lessee of the BEV
4 shall be assessed an amount equal to the difference between actual miles
5 traveled and the mileage that the fee assessed pursuant to subdivision (1) of
6 this subsection (c) was based on multiplied by the rate established pursuant to
7 subsection (e) of this section. That amount shall be added to the amount of the
8 next mileage-based user fee assessed for the BEV pursuant to subsection (a) or
9 (b) of this section.

10 (d) Calculation of the mileage-based user fee. The Commissioner shall
11 calculate the mileage-based user fee of each BEV by multiplying the miles
12 traveled by the BEV during its mileage reporting period by the rate established
13 pursuant to subsection (e) of this section. The number of miles traveled shall
14 be equal to the difference between the mileage shown on the BEV's odometer
15 at the end of the mileage reporting period and the mileage shown on the BEV's
16 odometer at the beginning of the mileage reporting period.

17 (e) Mileage-based user fee rate; annual adjustment.

18 (1) For mileage reporting periods commencing in calendar year 2027,
19 the mileage-based user fee rate shall be \$0.014 per mile traveled by a BEV
20 during its mileage reporting period.

1 (2) Beginning on January 1, 2028, and on each succeeding January 1,
2 the mileage-based user fee rate shall be increased by the percentage change in
3 the National Highway Construction Cost Index, or successor index, for the
4 year ending on September 30 of the preceding calendar year. If the percentage
5 change in the National Highway Construction Cost Index, or successor index,
6 is zero or negative, the rate per mile shall remain the same as in the preceding
7 year.

8 (f) Exemptions. The mileage-based user fee assessed pursuant to this
9 section shall not apply to BEVs owned or operated by the Government of the
10 United States.

11 (g) A mileage-based user fee assessed pursuant to this section shall be in
12 addition to any other fees and taxes imposed by this title.

13 § 4304. REPORTS

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

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

21 § 4305. FAILURE TO FILE REPORT OR PAY FEE WHEN DUE;

1 PENALTY

2 (a) Any person who fails to pay the mileage-based user fee when due shall
3 owe, in addition to the mileage-based user fee, interest calculated at one and
4 one-half percent per month on the amount of the mileage-based user fee that
5 remains unpaid.

6 (b) For amounts that remain unpaid for more than 30 days, a penalty equal
7 to five percent of the outstanding mileage-based user fee due shall be assessed
8 for each month until the mileage-based user fee has been paid in full. The
9 penalty imposed pursuant to this subdivision shall not exceed 25 percent of the
10 amount of the mileage-based user fee for the BEV that was assessed pursuant
11 to subsection 4303(a) of this chapter.

12 (c) The Commissioner may waive some or all of the interest and penalties
13 required pursuant to this subsection if the Commissioner determines that the
14 delay in payment was due to excusable neglect.

15 § 4306. FAILURE TO FILE REPORT; PENALTY RATE

16 If the Commissioner is unable to determine the annual vehicle miles
17 traveled for a BEV because a person failed to file a report required by section
18 4304 of this chapter, the Commissioner shall calculate the mileage-based user
19 fee for the BEV based on the 98th percentile of the miles traveled by BEVs
20 registered in Vermont during mileage reporting periods ending in the
21 preceding calendar year.

1 § 4307. REGISTRATION; SUSPENSION OR REFUSAL

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

6 (1) failed to file a report required pursuant to section 4304 of this
7 chapter;

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

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

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

17 § 4308. POWERS OF THE COMMISSIONER

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

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

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

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

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

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

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

19 (6) Compel the attendance of witnesses and order the production of any
20 relevant books, records, papers, accounts, or other documents of any person the
21 Commissioner has reason to believe is liable for the payment of a mileage-

1 based user fee or of any person believed to have information pertinent to any
2 matter under investigation by the Commissioner at any hearing held under this
3 chapter. The fees for travel and attendance of witnesses summoned or used by
4 the Commissioner and fees for officers shall be the same as for witnesses and
5 officers before a court and shall be paid by the State upon presentation of
6 proper bills of cost to the Commissioner of Finance and Management, but no
7 fees or expenses shall be payable to a witness charged with liability for
8 reporting or paying a mileage-based user fee.

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

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

18 **§ 4309. PROCEEDINGS TO RECOVER UNPAID AMOUNTS**

19 (a) Civil enforcement actions. Whenever any person fails to pay the
20 mileage-based user fee, penalty, or interest due under this chapter, the Attorney
21 General shall, upon the request of the Commissioner, enforce the payment on

1 behalf of the State in any court of the State or of any other state of the United
2 States or of any province of Canada.

3 (b) Liens. The remedy for the collection of taxes provided by 32 V.S.A.
4 § 9811(b) shall be available to the Commissioner as an additional or alternate
5 remedy for collection of amounts due under this chapter. The Commissioner
6 may issue a warrant directed to a law enforcement officer who may exercise
7 throughout the State the same powers granted to a sheriff in the sheriff's
8 county.

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

17 **§ 4310. JUDICIAL REVIEW**

18 (a) Notice of appeal. An aggrieved person may appeal any final decision,
19 order, or finding of the Commissioner under this chapter pursuant to Rule 74
20 of the Vermont Rules of Civil Procedure. The appeal shall be to the
21 Washington Superior Court or, in the discretion of the appellant, to the

1 Superior Court in the county where the appellant resides or has a principal
2 place of business.

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

6 Sec. __. 23 V.S.A. § 361 is amended to read:

7 § 361. PLEASURE CARS

8 * * *

9 (c) In addition to the registration fee set forth in subsection (a) of this
10 section, there shall be an annual EV infrastructure fee for a pleasure car that is
11 a plug-in hybrid electric vehicle, as defined in subdivision 4(85)(B) of this
12 title, equal to one-half the amount of the annual fee collected in subsection (a)
13 of this section, or a biennial EV infrastructure fee equal to the annual fee
14 collected in subsection (a) of this section.

15 (d) The annual and biennial EV infrastructure fees collected in subsection
16 (c) of this section shall be allocated to deposited in the Transportation Fund for
17 programs administered by the Agency of Commerce and Community
18 Development to increase Vermonters' access to level 1 and 2 electric vehicle
19 supply equipment (EVSE) charging ports at workplaces or multiunit dwellings,
20 or both.