

B-Engrossed
House Bill 2270

Ordered by the House June 19
Including House Amendments dated June 14 and June 19

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Kate Brown for Oregon Health Authority)

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.

Increases tax on distribution of cigarettes. Applies to cigarettes tax reporting periods beginning on or after January 1, 2021, and to existing inventories of cigarettes not yet acquired by consumers as of January 1, 2021.

Includes inhalant delivery systems in definition of "tobacco products" for purpose of imposition of tax. Exempts certain sales of inhalant delivery systems sold for marijuana use from taxation. *[Removes]* **Increases** limit on tax imposed upon higher-priced cigars. Applies to tobacco products tax reporting periods beginning on or after January 1, 2021.

[Exempts inhalant delivery systems from preemption on local taxes imposed on tobacco products. Prohibits sale of cigars for less than wholesale price and sets minimum price.] Prohibits distribution or sale of cigarettes or certain cigars in packages containing fewer than 20.

Provides for distribution of increased tax revenues to Oregon Health Authority for medical assistance program, including mental health services, and for public health programs, including programs addressing tobacco and nicotine-related disease.

Allows sharing of otherwise confidential information between Department of Revenue and Oregon Health Authority for purposes of enforcement and administration of statutes.

Refers Act to people for their approval or rejection at next regular general election.

A BILL FOR AN ACT

1
2 Relating to taxes on nonfood consumer products; creating new provisions; amending ORS 323.010,
3 323.031, 323.455, 323.457, 323.500, 323.505, 323.625 and 431A.175; providing for revenue raising
4 that requires approval by a three-fifths majority; and providing that this Act shall be referred
5 to the people for their approval or rejection.

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

7 **SECTION 1.** ORS 323.031 is amended to read:

8 323.031. (1) Notwithstanding ORS 323.030 (2) and in addition to and not in lieu of any other tax,
9 every distributor shall pay a tax upon distributions of cigarettes at the rate of 30 mills for the dis-
10 tribution of each cigarette in this state.

11 **(2) Notwithstanding ORS 323.030 (2) or subsection (1) of this section and in addition to**
12 **and not in lieu of any other tax, every distributor shall pay a tax upon distributions of ciga-**
13 **rettes at the rate of 100 mills for the distribution of each cigarette in this state.**

14 [(2)] (3) Any cigarette for which a tax has once been imposed under ORS 323.005 to 323.482 may
15 not be subject upon a subsequent distribution to the taxes imposed by ORS 323.005 to 323.482.

16 **SECTION 2.** Section 3 of this 2019 Act is added to and made a part of ORS 323.005 to
17 323.482.

18 **SECTION 3.** All moneys received by the Department of Revenue from the tax imposed
19 by ORS 323.031 (2) shall be paid over to the State Treasurer to be held in a suspense account

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 established under ORS 293.445. The department shall pay expenses for administration and
2 enforcement of ORS 323.005 to 323.482 out of moneys received from the tax imposed under
3 ORS 323.031 (2). Moneys used for payment of expenses under this section shall equal 60.61
4 percent of all expenses for administration and enforcement of ORS 323.005 to 323.482.
5 Amounts necessary to pay administrative and enforcement expenses are continuously ap-
6 propriated to the department from the suspense account. After the payment of administra-
7 tive and enforcement expenses and refunds, the remaining balance shall be credited to the
8 Oregon Health Authority Fund established by ORS 413.101 to be used as follows:

9 (1) 90 percent of the moneys are continuously appropriated to the Oregon Health Au-
10 thority for the purposes of funding the maintenance and expansion of the number of persons
11 eligible for medical assistance and funding the maintenance of benefits available under the
12 medical assistance program, including mental health services.

13 (2) 10 percent of the moneys are continuously appropriated to the Oregon Health Au-
14 thority for distribution to tribal health providers, Urban Indian Health programs, regional
15 health equity coalitions, culturally specific and community-specific health programs and
16 state and local public health programs that address prevention and cessation of tobacco and
17 nicotine use by youth and adults, tobacco-related health disparities and the prevention and
18 management of chronic disease related to tobacco and nicotine.

19 **SECTION 4.** ORS 323.455 is amended to read:

20 323.455. (1) All moneys received by the Department of Revenue from the tax imposed by ORS
21 323.030 (1) shall be paid over to the State Treasurer to be held in a suspense account established
22 under ORS 293.445. The department may pay expenses for administration and enforcement of ORS
23 323.005 to 323.482 out of moneys received from the tax imposed under ORS 323.030 (1), **after all**
24 **amounts available under section 3 of this 2019 Act for expenses for administration and**
25 **enforcement of ORS 323.005 to 323.482 have been used.** Amounts necessary to pay administrative
26 and enforcement expenses are continuously appropriated to the department from the suspense ac-
27 count. After the payment of administrative and enforcement expenses and refunds, 89.65 percent
28 shall be credited to the General Fund, 3.45 percent is appropriated to the cities of this state, 3.45
29 percent is appropriated to the counties of this state and 3.45 percent is continuously appropriated
30 to the Department of Transportation for the purpose of financing and improving transportation ser-
31 vices for elderly individuals and individuals with disabilities as provided in ORS 391.800 to 391.830.

32 (2) The moneys appropriated to cities and counties under subsection (1) of this section shall be
33 paid on a monthly basis within 35 days after the end of the month for which a distribution is made.
34 Each city shall receive such share of the money appropriated to all cities as its population, as de-
35 termined under ORS 190.510 to 190.590 last preceding such apportionment, bears to the total popu-
36 lation of the cities of the state, and each county shall receive such share of the money as its
37 population, determined under ORS 190.510 to 190.590 last preceding such apportionment, bears to the
38 total population of the state.

39 (3) The moneys appropriated to the Department of Transportation under subsection (1) of this
40 section shall be distributed and transferred to the Elderly and Disabled Special Transportation Fund
41 established by ORS 391.800 at the same time as the cigarette tax moneys are distributed to cities
42 and counties under this section.

43 (4) Of the moneys credited to the General Fund under subsection (1) of this section, 51.92 per-
44 cent shall be dedicated to funding the maintenance and expansion of the number of persons eligible
45 for the medical assistance program under ORS chapter 414, or to funding the maintenance of the

1 benefits available under the program, or both, and 5.77 percent shall be credited to the Tobacco Use
2 Reduction Account established under ORS 431A.153.

3 (5) All moneys received by the Department of Revenue from the tax imposed by ORS 323.030 (4)
4 shall be paid over to the State Treasurer to be held in a suspense account established under ORS
5 293.445. After the payment of refunds, the balance shall be credited to the Oregon Health Authority
6 Fund established by ORS 413.101 and shall be used to provide the services described in ORS 430.630.

7 **SECTION 5.** ORS 323.457 is amended to read:

8 323.457. (1) Moneys received under ORS 323.031 (1) shall be paid over to the State Treasurer
9 to be held in a suspense account established under ORS 293.445. After the payment of refunds:

10 (a) 29.37/30 of the moneys shall be credited to the [*Oregon Health Plan Fund established under*
11 **ORS 414.109**] **Oregon Health Authority Fund established under ORS 413.101**;

12 (b) 0.14/30 of the moneys are continuously appropriated to the Oregon Department of Adminis-
13 trative Services for distribution to the cities of this state;

14 (c) 0.14/30 of the moneys are continuously appropriated to the Oregon Department of Adminis-
15 trative Services for distribution to the counties of this state;

16 (d) 0.14/30 of the moneys are continuously appropriated to the Department of Transportation to
17 be distributed and transferred to the Elderly and Disabled Special Transportation Fund established
18 under ORS 391.800; and

19 (e) 0.21/30 of the moneys shall be credited to the Tobacco Use Reduction Account established
20 under ORS 431A.153.

21 (2)(a) Moneys distributed to cities and counties under this section shall be distributed to each
22 city or county using the proportions used for distributions made under ORS 323.455.

23 (b) Moneys shall be distributed to cities, counties and the Elderly and Disabled Special Trans-
24 portation Fund at the same time moneys are distributed to cities, counties and the Elderly and
25 Disabled Special Transportation Fund under ORS 323.455.

26 **SECTION 6.** ORS 323.010 is amended to read:

27 323.010. As used in ORS 323.005 to 323.482, unless the context requires otherwise:

28 (1) "Cigarette" means any product that contains nicotine, is intended to be burned or heated
29 under ordinary conditions of use and consists of or contains:

30 (a) Any roll of tobacco wrapped in paper or in any substance not containing tobacco;

31 (b) Tobacco, in any form, that is functional in the product and that, because of its appearance,
32 the type of tobacco used in the filler or its packaging and labeling, is likely to be offered to, or
33 purchased by, consumers as a cigarette; [*or*]

34 (c) Any roll of tobacco that is wrapped in any substance containing tobacco and that, because
35 of its appearance, the type of tobacco used in the filler or its packaging and labeling, is likely to
36 be offered to, or purchased by, consumers as a cigarette described in paragraph (a) of this
37 subsection[.]; **or**

38 **(d) A roll for smoking that is of any size or shape and that is made wholly or in part of**
39 **tobacco, irrespective of whether the tobacco is pure or flavored, adulterated or mixed with**
40 **any other ingredient, if the roll has a wrapper made wholly or in greater part of tobacco and**
41 **if 1,000 of these rolls collectively weigh not more than three pounds.**

42 (2) "Cigarette activity in this state":

43 (a) Means importing, storing or manufacturing cigarettes in this state, or exporting cigarettes
44 out of this state, in order to sell the cigarettes either within or outside this state.

45 (b) Does not include importing, storing, manufacturing or exporting of cigarettes that are to be

1 consumed by the person doing the importing, storing, manufacturing or exporting.

2 (3) "Contraband cigarettes" means cigarettes or packages of cigarettes:

3 (a) That do not comply with the requirements of ORS 323.005 to 323.482 or 323.856 or the ciga-
4 rrette tax laws of another state or the federal government;

5 (b) That bear trademarks that are counterfeit under ORS 647.135 or other state or federal
6 trademark laws; or

7 (c) That have been sold, offered for sale or possessed for sale in this state in violation of ORS
8 180.440.

9 (4) "Department" means the Department of Revenue.

10 (5) "Dealer" includes every person, other than a manufacturer or a person holding a
11 distributor's license, who engages in this state in the sale of cigarettes.

12 (6) "Exporting" means the act of carrying or conveying goods from a point of manufacture or
13 storage in this state to a location outside this state and may be further defined by the department
14 by rule.

15 (7) "Importing" means the act of bringing goods to a point of storage in this state from a lo-
16 cation outside this state and may be further defined by the department by rule.

17 (8) "In this state" means within the exterior limits of the State of Oregon and includes all ter-
18 ritory within these limits owned by or ceded to the United States of America.

19 (9) "Manufacturer" means any person who makes, manufactures or fabricates cigarettes for sale.

20 (10) "Package" means the individual package, box or other container in which retail sales or
21 gifts of cigarettes are normally made or intended to be made.

22 (11) "Person" includes any individual, firm, copartnership, joint venture, association, social club,
23 fraternal organization, corporation, estate, trust, receiver, trustee, syndicate, this state, any county,
24 municipality, district or other political subdivision of the state, or any other group or combination
25 acting as a unit.

26 (12) "Sale" includes any transfer of title or possession for a consideration, exchange or barter,
27 in any manner or by any means whatsoever, but does not include the sale of cigarettes by a man-
28 ufacturer to a distributor.

29 (13) "Taxpayer" means a distributor or other person required to pay a tax under ORS 323.005
30 to 323.482, and includes a distributor required to prepay a tax under ORS 323.068.

31 (14) "Transporter" means any person importing or transporting into this state, or transporting
32 in this state, cigarettes obtained from a source located outside this state, or from any person not
33 licensed as a distributor under ORS 323.005 to 323.482. It does not include a licensed distributor, a
34 common carrier to whom is issued a certificate or permit by the United States Surface Transporta-
35 tion Board to carry commodities in interstate commerce, or to a carrier of federal tax-free cigarettes
36 in bond, or any person transporting no more than 199 cigarettes at any one time.

37 (15) "Untaxed cigarette" means any cigarette that has not yet been distributed in such manner
38 as to result in a tax liability under ORS 323.005 to 323.482.

39 (16) "Use or consumption" includes the exercise of any right or power over cigarettes incident
40 to the ownership thereof, other than the sale of the cigarettes or the keeping or retention thereof
41 for the purpose of sale.

42 (17) "Wholesaler" means any dealer who engages in the sale of cigarettes to any other dealer
43 for purposes other than use or consumption.

44 **SECTION 7. (1) In addition to and not in lieu of any other tax, for the privilege of holding**
45 **or storing cigarettes for sale, use or consumption, a floor tax is imposed upon every dealer**

1 at the rate of 100 mills for each cigarette in the possession of or under the control of the
2 dealer in this state at 12:01 a.m. on January 1, 2021.

3 (2) By January 20, 2021, every dealer must file a report with the Department of Revenue
4 in such form as the department may prescribe. The report must state the number of ciga-
5 rettes in the possession of or under the control of the dealer in this state at 12:01 a.m. on
6 January 1, 2021, and the amount of tax due. Each report must be accompanied by a remit-
7 tance payable to the department for the amount of tax due.

8 (3) One-sixth of the amount of tax required to be paid with respect to the affixed stamps
9 shall be computed pursuant to this section and remitted with the dealer's report and by the
10 20th of each month thereafter until the total tax under this section is paid. Any amount of
11 tax that is not paid within the time specified for the filing of the report or payment of the
12 tax shall bear interest at the rate established under ORS 305.220 per month, or fraction of
13 a month, from the date on which the tax is due to be paid, until paid.

14 (4) As used in this section, "dealer" has the meaning given that term in ORS 323.010.

15 **SECTION 8.** Notwithstanding ORS 323.030 (3) or 323.031 (3), for the privilege of distrib-
16 uting cigarettes as a distributor, as defined in ORS 323.015, and for holding or storing ciga-
17 rettes for sale, use or consumption, a floor tax and cigarette adjustment indicia tax is
18 imposed upon every distributor in the amount of \$2.50 for each Oregon cigarette tax stamp
19 bearing the designation "25," and in the amount of \$2 for each Oregon cigarette tax stamp
20 bearing the designation "20," that is affixed to any package of cigarettes in the possession
21 of or under the control of the distributor, or that is unaffixed, at 12:01 a.m. on January 1,
22 2021.

23 **SECTION 9.** (1) Every distributor, as defined in ORS 323.015, must take an inventory as
24 of 12:01 a.m. on January 1, 2021, of all packages of cigarettes to which are affixed Oregon
25 cigarette tax stamps and of all unaffixed Oregon cigarette tax stamps in the possession of
26 or under the control of the distributor.

27 (2) Every distributor must file a report with the Department of Revenue by January 20,
28 2021, in such form as the department may prescribe, showing:

29 (a) The number of Oregon cigarette tax stamps, with the designations of the stamps, that
30 were affixed to packages of cigarettes in the possession of or under the control of the dis-
31 tributor at 12:01 a.m. on January 1, 2021; and

32 (b) The number of unaffixed Oregon cigarette tax stamps, with the designations of the
33 stamps, that were in the possession of or under the control of the distributor at 12:01 a.m.
34 on January 1, 2021.

35 (3) One-sixth of the amount of tax required to be paid with respect to the affixed or un-
36 affixed Oregon cigarette tax stamps shall be computed pursuant to section 8 of this 2019 Act
37 and remitted with the distributor's report and by the 20th of each month thereafter until the
38 total tax under section 8 of this 2019 Act is paid. Any amount of tax not paid within the time
39 specified for the filing of the report and payment of the tax shall bear interest at the rate
40 established under ORS 305.220 per month, or fraction of a month, from the due date of the
41 report until paid.

42 **SECTION 10.** All moneys received by the Department of Revenue from the taxes imposed
43 by sections 7 and 8 of this 2019 Act shall be paid over to the State Treasurer to be held in
44 a suspense account established under ORS 293.445. After payment of refunds, the remaining
45 balance shall be credited to the Oregon Health Authority Fund established by ORS 413.101.

1 **SECTION 11.** ORS 323.500 is amended to read:

2 323.500. As used in ORS 323.500 to 323.645, unless the context otherwise requires:

3 (1) “Business” means any trade, occupation, activity or enterprise engaged in for the purpose
4 of selling or distributing tobacco products in this state.

5 (2) “Cigar” means a roll for smoking that is of any size or shape and that is made wholly or in
6 part of tobacco, irrespective of whether the tobacco is pure or flavored, adulterated or mixed with
7 any other ingredient, if the roll has a wrapper made wholly or in greater part of tobacco and if 1,000
8 of these rolls collectively weigh more than three pounds. “Cigar” does not include a cigarette, as
9 defined in ORS 323.010.

10 (3) “Consumer” means any person who purchases tobacco products in this state for the person’s
11 use or consumption or for any purpose other than for reselling the tobacco products to another
12 person.

13 (4) “Contraband tobacco products” means tobacco products or packages containing tobacco
14 products:

15 (a) That do not comply with the requirements of ORS 323.500 to 323.645;

16 (b) That do not comply with the requirements of the tobacco products tax laws of the federal
17 government or of other states;

18 (c) That bear trademarks that are counterfeit under ORS 647.135 or other state or federal
19 trademark laws; or

20 (d) That have been sold, offered for sale or possessed for sale in this state in violation of ORS
21 180.486.

22 (5) “Department” means the Department of Revenue.

23 (6) “Distribute” means:

24 (a) Bringing, or causing to be brought, into this state from without this state tobacco products
25 for sale, storage, use or consumption;

26 (b) Making, manufacturing or fabricating tobacco products in this state for sale, storage, use or
27 consumption in this state;

28 (c) Shipping or transporting tobacco products to retail dealers in this state, to be sold, stored,
29 used or consumed by those retail dealers;

30 (d) Storing untaxed tobacco products in this state that are intended to be for sale, use or con-
31 sumption in this state;

32 (e) Selling untaxed tobacco products in this state; or

33 (f) As a consumer, being in possession of untaxed tobacco products in this state.

34 (7) “Distributor” means:

35 (a) Any person engaged in the business of selling tobacco products in this state who brings, or
36 causes to be brought, into this state from without the state any tobacco products for sale;

37 (b) Any person who makes, manufactures or fabricates tobacco products in this state for sale in
38 this state;

39 (c) Any person engaged in the business of selling tobacco products without this state who ships
40 or transports tobacco products to retail dealers in this state, to be sold by those retail dealers;

41 (d) Any person, including a retail dealer, who sells untaxed tobacco products in this state; or

42 (e) A consumer in possession of untaxed tobacco products in this state.

43 **(8)(a) “Inhalant delivery system” means:**

44 **(A) A device that can be used to deliver nicotine in the form of a vapor or aerosol to a**
45 **person inhaling from the device; or**

1 **(B) A component of a device described in this paragraph or a substance in any form sold**
2 **for the purpose of being vaporized or aerosolized by a device described in this paragraph,**
3 **whether the component or substance is sold separately or is not sold separately.**

4 **(b) “Inhalant delivery system” does not include:**

5 **(A) Any product that has been approved by the United States Food and Drug Adminis-**
6 **tration for sale as a tobacco cessation product or for any other therapeutic purpose, if the**
7 **product is marketed and sold solely for the approved purpose;**

8 **(B) If sold separately, battery chargers, straps or lanyards; or**

9 **(C) Marijuana items as defined in ORS 475B.015.**

10 [(8)] **(9) “Manufacturer” means a person who manufactures tobacco products for sale.**

11 [(9)] **(10) “Moist snuff” means:**

12 (a) Any finely cut, ground or powdered tobacco that is not intended to be smoked or placed in
13 a nasal cavity; or

14 (b) Any other product containing tobacco that is intended or expected to be consumed without
15 being combusted.

16 [(10)] **(11) “Place of business” means any place where tobacco products are sold or where to-**
17 **bacco products are manufactured, stored or kept for the purpose of sale or consumption, including**
18 **any vessel, vehicle, airplane, train or vending machine.**

19 [(11)] **(12) “Retail dealer” means any person who is engaged in the business of selling or other-**
20 **wise dispensing tobacco products to consumers. The term also includes the operators of or recipients**
21 **of revenue from all places such as smoke shops, cigar stores and vending machines, where tobacco**
22 **products are made or stored for ultimate sale to consumers.**

23 [(12)] **(13) “Sale” means any transfer, exchange or barter, in any manner or by any means, for**
24 **a consideration, and includes and means all sales made by any person. It includes a gift by a person**
25 **engaged in the business of selling tobacco products, for advertising, as a means of evading the pro-**
26 **visions of ORS 323.500 to 323.645, or for any other purpose.**

27 [(13)] **(14) “Taxpayer” includes a distributor or other person required to pay a tax imposed under**
28 **ORS 323.500 to 323.645.**

29 [(14)] **(15) “Tobacco products” means cigars, cheroots, stogies, periques, granulated, plug cut,**
30 **crimp cut, ready rubbed and other smoking tobacco, snuff, snuff flour, moist snuff, cavendish, plug**
31 **and twist tobacco, fine-cut and other chewing tobaccos, shorts, refuse scraps, clippings, cuttings and**
32 **sweepings of tobacco and other kinds and forms of tobacco, prepared in such manner as to be suit-**
33 **able for chewing or smoking in a pipe or otherwise, or both for chewing and smoking, and inhalant**
34 **delivery systems, but [shall] does not include cigarettes as defined in ORS 323.010.**

35 [(15)] **(16) “Untaxed tobacco products” means tobacco products for which the tax required under**
36 **ORS 323.500 to 323.645 has not been paid.**

37 [(16)] **(17) “Wholesale sales price” means the price paid for untaxed tobacco products to or on**
38 **behalf of a seller by a purchaser of the untaxed tobacco products.**

39 **SECTION 12.** ORS 323.505 is amended to read:

40 323.505. (1) A tax is hereby imposed upon the distribution of all tobacco products in this state.
41 The tax imposed by this section is intended to be a direct tax on the consumer, for which payment
42 upon distribution is required to achieve convenience and facility in the collection and administration
43 of the tax. The tax shall be imposed on a distributor at the time the distributor distributes tobacco
44 products.

45 (2) The tax imposed under this section shall be imposed at the rate of:

1 *[(a) Sixty-five percent of the wholesale sales price of cigars, but not to exceed 50 cents per cigar;]*

2 **(a) Sixty-five percent of the wholesale sales price of cigars, but not to exceed one dollar**
3 **per cigar;**

4 (b) One dollar and seventy-eight cents per ounce based on the net weight determined by the
5 manufacturer, in the case of moist snuff, except that the minimum tax under this paragraph is \$2.14
6 per retail container; or

7 (c) Sixty-five percent of the wholesale sales price of all tobacco products that are not cigars or
8 moist snuff.

9 (3) For reporting periods beginning on or after July 1, 2022, the rates of tax applicable to moist
10 snuff under subsection (2)(b) of this section shall be adjusted for each biennium according to the
11 cost-of-living adjustment for the calendar year. The Department of Revenue shall recompute the
12 rates for each biennium by adding to the rates in subsection (2)(b) of this section the product ob-
13 tained by multiplying the rates in subsection (2)(b) of this section by a factor that is equal to 0.25
14 multiplied by the percentage (if any) by which the monthly averaged U.S. City Average Consumer
15 Price Index for the 12 consecutive months ending August 31 of the prior calendar year exceeds the
16 monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending
17 August 31, 2020.

18 (4) If the tax imposed under this section does not equal an amount calculable to a whole cent,
19 the tax shall be equal to the next higher whole cent. However, the amount remitted to the Depart-
20 ment of Revenue by the taxpayer for each quarter shall be equal only to 98.5 percent of the total
21 taxes due and payable by the taxpayer for the quarter.

22 **(5) A tax under this section is not imposed on inhalant delivery systems that are:**

23 **(a) Marketed and sold solely for the purpose of vaporizing or aerosolizing marijuana**
24 **items as defined in ORS 475B.015; or**

25 **(b) Purchased in a medical marijuana dispensary that is registered under ORS 475B.858**
26 **by a person to whom a registry identification card has been issued under ORS 475B.797.**

27 [(5)] **(6)** No tobacco product shall be subject to the tax if the base product or other intermediate
28 form thereof has previously been taxed under this section.

29 **SECTION 13.** ORS 323.625 is amended to read:

30 323.625. All moneys received by the Department of Revenue under ORS 323.500 to 323.645 shall
31 be deposited in the State Treasury and credited to a suspense account established under ORS
32 293.445. The department may pay expenses for administration and enforcement of ORS 323.500 to
33 323.645 out of moneys received from the taxes imposed under ORS 323.505 and 323.565. Amounts
34 necessary to pay administrative and enforcement expenses are continuously appropriated to the de-
35 partment from the suspense account. After the payment of administrative and enforcement expenses
36 and refunds or credits arising from erroneous overpayments, **and except as provided in section**
37 **14 of this 2019 Act**, the balance of the money shall be credited to the General Fund. Of the amount
38 credited to the General Fund under this section 41.54 percent shall be dedicated to funding the
39 maintenance and expansion of the number of persons eligible for the medical assistance program
40 under ORS chapter 414, or to funding the maintenance of the benefits available under the program,
41 or both, and 4.62 percent shall be credited to the Tobacco Use Reduction Account established under
42 ORS 431A.153.

43 **SECTION 14.** All moneys received by the Department of Revenue under the tax imposed
44 **on inhalant delivery systems by ORS 323.505 shall be deposited in the State Treasury and**
45 **credited to a suspense account established under ORS 293.445. After the payment of refunds**

1 or credits arising from erroneous overpayments, the remaining balance shall be distributed
2 as follows:

3 (1) 90 percent of the moneys are continuously appropriated to the Oregon Health Au-
4 thority for the purposes of funding the maintenance and expansion of the number of persons
5 eligible for medical assistance and funding the maintenance of benefits available under the
6 medical assistance program, including mental health services.

7 (2) 10 percent of the moneys are continuously appropriated to the Oregon Health Au-
8 thority for distribution to tribal health providers, Urban Indian Health programs, regional
9 health equity coalitions, culturally specific and community-specific health programs and
10 state and local public health programs that address prevention and cessation of tobacco and
11 nicotine use by youth and adults, tobacco-related health disparities and the prevention and
12 management of chronic disease related to tobacco and nicotine.

13 NOTE: Section 15 was deleted by amendment. Subsequent sections were not renumbered.

14 SECTION 16. ORS 431A.175 is amended to read:

15 431A.175. (1) As used in this section and ORS 431A.183:

16 (a)(A) "Inhalant delivery system" means:

17 (i) A device that can be used to deliver nicotine or cannabinoids in the form of a vapor or aer-
18 osol to a person inhaling from the device; or

19 (ii) A component of a device described in this subparagraph or a substance in any form sold for
20 the purpose of being vaporized or aerosolized by a device described in this subparagraph, whether
21 the component or substance is sold separately or is not sold separately.

22 (B) "Inhalant delivery system" does not include:

23 (i) Any product that has been approved by the United States Food and Drug Administration for
24 sale as a tobacco cessation product or for any other therapeutic purpose, if the product is marketed
25 and sold solely for the approved purpose; and

26 (ii) Tobacco products.

27 (b) "Tobacco products" means:

28 (A) Bidis, cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed and
29 other smoking tobacco, snuff, snuff flour, cavendish, plug and twist tobacco, fine-cut and other
30 chewing tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of tobacco and other
31 forms of tobacco, prepared in a manner that makes the tobacco suitable for chewing or smoking in
32 a pipe or otherwise, or for both chewing and smoking;

33 (B) Cigarettes as defined in ORS 323.010 (1); or

34 (C) A device that:

35 (i) Can be used to deliver tobacco products to a person using the device; and

36 (ii) Has not been approved by the United States Food and Drug Administration for sale as a
37 tobacco cessation product or for any other therapeutic purpose, if the product is marketed and sold
38 solely for the approved purpose.

39 (2) It is unlawful:

40 (a) To violate ORS 167.750.

41 (b) To fail as a retailer of tobacco products to post a notice substantially similar to the notice
42 described in subsection (3) of this section in a location that is clearly visible to the seller and the
43 purchaser of the tobacco products.

44 (c) To fail as a retailer of inhalant delivery systems to post a notice in a location that is clearly
45 visible to the seller and the purchaser of the inhalant delivery systems that it is unlawful to sell

1 inhalant delivery systems to persons under 21 years of age. The Oregon Health Authority shall
2 adopt by rule the content of the notice required under this paragraph.

3 (d) To distribute, sell or allow to be sold an inhalant delivery system if the inhalant delivery
4 system is not labeled in accordance with rules adopted by the authority.

5 (e) To distribute, sell or allow to be sold an inhalant delivery system if the inhalant delivery
6 system is not packaged in child-resistant safety packaging, as required by the authority by rule.

7 (f) To distribute, sell or allow to be sold an inhalant delivery system if the inhalant delivery
8 system is packaged in a manner that is attractive to minors, as determined by the authority by rule.

9 (g) To distribute, sell or allow to be sold cigarettes in any form other than a sealed package
10 **that contains at least 20 cigarettes.**

11 (3) The notice required by subsection (2)(b) of this section must be substantially as follows:
12

13
14 **NOTICE**

15 The sale of tobacco in any form to persons under 21 years of age is prohibited by law. Any
16 person who sells, or allows to be sold, tobacco to a person under 21 years of age is in violation of
17 Oregon law.
18

19
20 (4) Rules adopted under subsection (2)(d), (e) and (f) of this section must be consistent with any
21 regulation adopted by the United States Food and Drug Administration related to labeling or pack-
22 aging requirements for inhalant delivery systems.

23 **SECTION 17. (1) The amendments to ORS 323.010, 323.031, 323.455 and 323.457 by sections**
24 **1 and 4 to 6 of this 2019 Act apply to cigarette tax reporting periods beginning on or after**
25 **January 1, 2021.**

26 **(2) The amendments to ORS 323.500, 323.505 and 323.625 by sections 11 to 13 of this 2019**
27 **Act apply to tobacco products tax reporting periods beginning on or after January 1, 2021.**

28 **SECTION 18. Section 19 of this 2019 Act is added to and made a part of ORS 323.005 to**
29 **323.482.**

30 **SECTION 19. (1) Notwithstanding the confidentiality provisions of ORS 323.403, the De-**
31 **partment of Revenue may disclose information received under ORS 323.005 to 323.482 to the**
32 **Oregon Health Authority to carry out the provisions of ORS 167.750 to 167.785, 431A.175 or**
33 **431A.183.**

34 **(2) The authority may disclose information obtained pursuant to ORS 431A.175 or**
35 **431A.183 to the department for the purpose of carrying out the provisions of ORS 323.005 to**
36 **323.482, provided that the authority does not disclose personally identifiable information.**

37 **SECTION 20. Section 21 of this 2019 Act is added to and made a part of ORS 323.500 to**
38 **323.645.**

39 **SECTION 21. (1) Notwithstanding the confidentiality provisions of ORS 323.595, the De-**
40 **partment of Revenue may disclose information received under ORS 323.500 to 323.645 to the**
41 **Oregon Health Authority to carry out the provisions of ORS 167.750 to 167.785, 431A.175 or**
42 **431A.183.**

43 **(2) The authority may disclose information obtained pursuant to ORS 431A.175 or**
44 **431A.183 to the department for the purpose of carrying out the provisions of ORS 323.500 to**
45 **323.645, provided that the authority does not disclose personally identifiable information.**

1 **SECTION 22.** This 2019 Act shall be submitted to the people for their approval or re-
2 **jection at the next regular general election held throughout this state.**
3 _____