

House Bill 2848

Sponsored by Representative MARSH, Senator STEINER HAYWARD; Representatives BYNUM, KENY-GUYER, WILDE

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**.

Prohibits person from mailing or shipping inhalant delivery system without meeting certain requirements. Authorizes Oregon Health Authority to adopt rules.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to inhalant delivery systems; creating new provisions; amending ORS 431A.178; and pre-
3 scribing an effective date.

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

5 **SECTION 1. (1) As used in this section and section 2 of this 2019 Act:**

6 (a) **"Delivery sale":**

7 (A) **Means a sale of an inhalant delivery system to a consumer in this state in which:**

8 (i) **The purchaser submits the order for the sale via telephone or other voice trans-**
9 **mission, a delivery service or the Internet; or**

10 (ii) **The inhalant delivery system is delivered by use of a delivery service.**

11 (B) **Includes any sale of an inhalant delivery system described in subparagraph (A) of this**
12 **paragraph, regardless of where the seller is located.**

13 (b) **"Inhalant delivery system" has the meaning given that term in ORS 431A.175.**

14 (2) **A person may not mail or ship an inhalant delivery system in connection with a de-**
15 **livery sale order unless the person, prior to mailing or shipping the inhalant delivery system:**

16 (a) **Obtains from the prospective consumer a certification that includes a written state-**
17 **ment signed by the prospective consumer that:**

18 (A) **Certifies the prospective consumer's address and that the prospective consumer is**
19 **at least 21 years of age; and**

20 (B) **Confirms that the prospective consumer understands that signing another person's**
21 **name to the certification is illegal, that the sale of inhalant delivery systems to individuals**
22 **under 21 years of age is illegal and that the purchase of inhalant delivery systems by indi-**
23 **viduals under 21 years of age is illegal;**

24 (b) **Verifies the information contained in the certification against a commercially avail-**
25 **able database of government-collected information showing the age or date of birth of the**
26 **prospective consumer and obtains a photocopy or other image of a valid, government-issued**
27 **identification stating the age or date of birth of the prospective consumer;**

28 (c) **Provides a notice to the prospective consumer, via electronic mail or other means,**
29 **that meets the requirements of subsection (3) of this section; and**

30 (d) **In the case of an order for an inhalant delivery system through an Internet website,**

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 receives payment for the delivery sale from the prospective consumer by a credit or debit
 2 card that has been issued in the name of the prospective consumer or by a personal check
 3 issued by the prospective consumer.

4 (3) The notice required under subsection (2) of this section must include a prominent and
 5 clearly legible statement that sales of inhalant delivery systems:

6 (a) To individuals who are under 21 years of age are illegal; and

7 (b) Are restricted to those individuals who provide proof of age in accordance with sub-
 8 section (2) of this section.

9 (4) The Oregon Health Authority may adopt rules to carry out this section.

10 **SECTION 2.** (1) A person who accepts a purchase order for a delivery sale of an inhalant
 11 delivery system, in connection with the delivery sale, shall:

12 (a) Include, as part of the shipping documents, a clear and conspicuous statement that
 13 reads: “INHALANT DELIVERY SYSTEM: OREGON LAW PROHIBITS SHIPPING TO INDI-
 14 VIDUALS UNDER 21 AND REQUIRES THE PAYMENT OF ALL APPLICABLE TAXES”; and

15 (b) Use one of the following methods of mail, shipping or other delivery:

16 (A) Unless subparagraph (B) of this paragraph applies, a method of shipping or other
 17 delivery that obligates the delivery service to require:

18 (i) The consumer placing the delivery sale order, or another individual who is at least 21
 19 years of age who resides at the residence of the consumer, to sign to accept delivery of the
 20 shipping container; and

21 (ii) Proof, in the form of a valid, government-issued identification bearing a photograph
 22 of the individual who signs to accept delivery of the shipping container, demonstrating that
 23 the individual who signs to accept delivery is:

24 (I) Either the consumer or another individual residing at the residence of the consumer;
 25 and

26 (II) At least 21 years of age, except that proof of age is required only if the individual
 27 appears to be under 30 years of age.

28 (B) If the person is fulfilling a purchase order for a delivery sale by mailing an inhalant
 29 delivery system, to the extent permitted by the United States Postal Service, a method of
 30 mailing that requires the postal service to require:

31 (i) The consumer placing the delivery sale order, or another individual who is at least 21
 32 years of age who resides at the residence of the consumer, to sign to accept delivery of the
 33 shipping container; and

34 (ii) Proof, in the form of a valid, government-issued identification bearing a photograph
 35 of the individual who signs to accept delivery of the shipping container, demonstrating that
 36 the individual who signs to accept delivery is:

37 (I) Either the consumer or another individual residing at the residence of the consumer;
 38 and

39 (II) At least 21 years of age, except that proof of age is required only if the individual
 40 appears to be under 30 years of age.

41 (2) If the person accepting a purchase order for a delivery sale delivers the inhalant de-
 42 livery system without using a delivery service or the United States Postal Service, the person
 43 shall comply with all requirements of this section and section 1 of this 2019 Act that apply
 44 to a delivery service. Failure to comply with the requirements described in this subsection
 45 is a violation of this section.

1 **(3) The Oregon Health Authority may adopt rules to carry out this section.**

2 **SECTION 3.** ORS 431A.178 is amended to read:

3 431A.178. (1) The Oregon Health Authority may impose a civil penalty for each violation of ORS
4 431A.175 **and sections 1 and 2 of this 2019 Act.** A civil penalty imposed under this section may
5 not be less than \$250 or more than \$1,000.

6 (2)(a) Amounts collected under subsection (1) of this section shall be deposited in the Oregon
7 Health Authority Fund established under ORS 413.101. Except as provided in paragraph (b) of this
8 subsection, moneys deposited in the fund under this subsection are continuously appropriated to the
9 authority for carrying out the duties, functions and powers of the authority under ORS 431A.175 and
10 431A.183 **and sections 1 and 2 of this 2019 Act.**

11 (b) At the end of each biennium, the authority shall transfer the unobligated moneys collected
12 under subsection (1) of this section remaining in the fund to the Tobacco Use Reduction Account
13 established under ORS 431A.153.

14 **SECTION 4.** (1) **Sections 1 and 2 of this 2019 Act and the amendments to ORS 431A.178**
15 **by section 3 of this 2019 Act become operative on January 1, 2020.**

16 **(2) The Oregon Health Authority may take any action before the operative date specified**
17 **in subsection (1) of this section that is necessary to enable the authority to exercise, on and**
18 **after the operative date specified in subsection (1) of this section, all of the duties, functions**
19 **and powers conferred on the authority by sections 1 and 2 of this 2019 Act and the amend-**
20 **ments to ORS 431A.178 by section 3 of this 2019 Act.**

21 **SECTION 5.** **This 2019 Act takes effect on the 91st day after the date on which the 2019**
22 **regular session of the Eightieth Legislative Assembly adjourns sine die.**

23