



DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

DATE: February 4, 2020
TO: Honorable Andrea Salinas, Chair of the House Committee on Health Care
FROM: Kate Denison, Legislative Policy Analyst
SUBJECT: HB 4078 – Remote Sales Ban for Inhalant Delivery Systems

This testimony is presented in support of HB 4078.

BACKGROUND

Youth are using tobacco products at an alarming rate. According to the CDC, approximately 31.2% of high school students and 12.5% of middle school students reported using tobacco products in 2019. Electronic cigarettes (“e-cigarettes”) are the most commonly used product tobacco product among young people, and – despite recent declines in the rate of cigarette smoking – the current vaping epidemic is threatening years of public health progress. In 2019, more than one in every four high school students (27.5%) reported that they used electronic cigarettes in the past 30 days. That is a 26% increase from reported use among high schoolers in 2011.

E-cigarettes are easy to hide and especially dangerous due to their high levels of nicotine—a typical cartridge contains as much nicotine as a pack of cigarettes. Nicotine is toxic for adolescents with developing brains, as they are more susceptible to both the addictiveness and harm effects of nicotine. Nicotine actually changes the adolescents’ brain cell activity in the parts of the brain responsible for attention, learning and memory. Even breathing e-cigarette aerosol that someone else has exhaled poses potential health risks.

Internet sales historically have allowed minors relatively easy access to tobacco. No matter how much so-called “proof” is required to make a purchase online, remote sellers just cannot adequately verify the age or identity of remote purchasers. Neither can they verify that their products are being delivered to people who are old enough to legally use them.

In 2017, the legislature enacted ORS 180.441, which prohibits remote sales of cigarettes and smokeless tobacco to Oregon consumers, and requires that sales of these products be made in person, as part of a face-to-face exchange. The face-to-face requirement is an important tool in combating sales of cigarettes and smokeless tobacco to youth because retailers are able to verify that the purchaser is at least 21 years of age before selling these products.

The Oregon Department of Justice has enforcement authority over ORS 180.441. This includes authority to issue civil investigative demands and to seek an injunction or civil penalties. DOJ staff investigates violations and takes enforcement action where warranted.

CONCEPT

HB 4078 would expand ORS 180.441 to include inhalant delivery systems, or e-cigarettes. It would prohibit shipment of these products to Oregon consumers and would require that consumer purchases of these products be made in person as part of a face-to-face exchange. HB 4078 would utilize the Attorney General's existing enforcement mechanisms to investigate and prosecute violations.

Banning online sales of inhalant delivery systems is an important step in reducing youth access to these deadly products. The Department of Justice is willing and able to assume the responsibilities contemplated by this legislation.

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