

Enrolled Senate Bill 64

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Kate Brown for Oregon Health Authority)

CHAPTER

AN ACT

Relating to public health; creating new provisions; amending ORS 167.760, 413.101, 431A.358, 431A.880, 433.006, 433.080, 452.010, 452.080, 452.120 and 452.160 and section 23, chapter 456, Oregon Laws 2019, and section 1, chapter 601, Oregon Laws 2019; repealing ORS 431A.885; and prescribing an effective date.

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

TOBACCO PRODUCTS AND INHALANT DELIVERY SYSTEMS

SECTION 1. Section 2 of this 2021 Act is added to and made a part of ORS 167.750 to 167.785.

SECTION 2. The prohibitions provided in ORS 471.430 (3) and 475B.316 (2) do not apply to a person who is under 21 years of age and who is acting under the direction of the Oregon Health Authority, the Oregon Liquor Control Commission, a local public health authority as defined in ORS 431.003, a city or a state or local law enforcement agency for the purpose of investigating possible violations of federal, state or local laws that prohibit the sale of tobacco products or inhalant delivery systems to persons under 21 years of age.

SECTION 3. ORS 167.760 is amended to read:

167.760. (1) Except as provided in subsection (2) of this section, a person under 21 years of age may not purchase or attempt to purchase tobacco products or an inhalant delivery system.

(2) A person under 21 years of age who is acting under the supervision of a person 21 years of age or older may *[purchase or attempt to purchase tobacco products or an inhalant delivery system]*, for the purpose of testing compliance with a federal *[law, state law,]*, **state or** local law or retailer policy limiting or regulating the distribution or sale of tobacco products or inhalant delivery systems to persons who are under the legal minimum purchase age[.]:

(a) Purchase or attempt to purchase tobacco products or an inhalant delivery system; and

(b) Enter or attempt to enter an establishment, or portion of an establishment, where tobacco products or inhalant delivery systems are sold and that is posted or otherwise identified as being prohibited to the entry of persons under 21 years of age.

SECTION 4. (1) Section 2 of this 2021 Act and the amendments to ORS 167.760 by section 3 of this 2021 Act become operative on January 1, 2022.

(2) The Oregon Health Authority, the Oregon Liquor Control Commission and a local public health authority may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the commission, the Oregon Health Authority and a local public health authority to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the commission, the Oregon Health Authority and a local public health authority by section 2 of this 2021 Act and the amendments to ORS 167.760 by section 3 of this 2021 Act.

LEAD-BASED PAINT

SECTION 5. ORS 431A.358 is amended to read:

431A.358. (1) An individual may not perform or offer to perform[, *for compensation,*] lead-based paint activities unless the individual is certified as provided under ORS 431A.355 [*or is performing lead-based paint activities under the supervision of a person certified under ORS 431A.355*].

(2) A firm may not perform[,] or offer to perform[, *lead-based paint activities or*] a renovation **for compensation** unless the firm is certified as provided under ORS 431A.355 [*or is performing lead-based paint activities or renovation under the supervision of a person certified under ORS 431A.355*].

(3) A firm may not perform or offer to perform lead-based paint activities unless the firm is certified as provided under ORS 431A.355.

SECTION 6. (1) The amendments to ORS 431A.358 by section 5 of this 2021 Act become operative on January 1, 2022.

(2) The Oregon Health Authority may take any action before the operative date specified in subsection (1) of this section that enables the authority to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the authority by the amendments to ORS 431A.358 by section 5 of this 2021 Act.

PRESCRIPTION MONITORING PROGRAM

SECTION 7. ORS 431A.880 is amended to read:

431A.880. (1) As used in this section, “board” means:

- (a) The Oregon Medical Board;
- (b) The Oregon Board of Dentistry;
- (c) The Oregon Board of Naturopathic Medicine;
- (d) The Oregon State Board of Nursing;
- (e) The Oregon Board of Optometry; and
- (f) The State Board of Pharmacy.

(2)(a) At the time of issuing or renewing a license, a board shall provide the Oregon Health Authority with the licensing information of each person licensed by the board who is authorized to prescribe or dispense controlled substances. The authority shall use the licensing information to qualify the licensee to report information to, or receive information from, the prescription monitoring program established under ORS 431A.855.

(b) A board by rule may adopt exceptions to the requirement described in paragraph (a) of this subsection.

(3)(a) In addition to other licensing fees imposed by a board on licensees, a board shall adopt rules imposing a fee of \$25 per year on each person licensed by the board who is authorized to prescribe or dispense controlled substances. A board shall collect the fee at the same time the board collects other licensing fees imposed on licensees.

(b) A board shall retain 10 percent of the fees collected under paragraph (a) of this subsection to cover the costs of administering this section.

(c) On the first day of each calendar quarter, a board shall transmit 90 percent of the fees collected under paragraph (a) of this subsection during the preceding calendar quarter to the [*Electronic Prescription Monitoring Fund established in ORS 431A.885*] **Oregon Health Authority Fund**

established in ORS 413.101. Moneys deposited in the fund under this paragraph may be used only for the purpose of carrying out ORS 431A.855 to 431A.900.

(4) A board may adopt rules necessary for the administration of this section.

SECTION 8. ORS 413.101 is amended to read:

413.101. (1) The Oregon Health Authority Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Oregon Health Authority Fund shall be credited to the fund.

(2) **Except as provided in subsection (3) of this section,** moneys in the fund are continuously appropriated to the Oregon Health Authority for carrying out the duties, functions and powers of the authority under ORS 413.032 and 431A.183.

(3)(a) **Moneys deposited in the fund pursuant to ORS 431A.880 are continuously appropriated to the authority for the purpose of carrying out ORS 431A.855 to 431A.900.**

(b) **The authority may accept grants, donations, gifts or moneys from any source for the purposes of carrying out ORS 431A.855 to 431A.900. Moneys received under this paragraph shall be deposited into the fund and are continuously appropriated for the purposes of carrying out ORS 431A.855 to 431A.900.**

(c) **Moneys subject to a federal restriction or other funding source restriction must be accounted for separately from other moneys described in this subsection.**

SECTION 9. ORS 431A.885 is repealed.

SECTION 10. (1) **The amendments to ORS 413.101 and 431A.880 by sections 7 and 8 of this 2021 Act and the repeal of ORS 431A.885 by section 9 of this 2021 Act become operative on January 1, 2022.**

(2) **The Oregon Health Authority may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the authority to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the authority by the amendments to ORS 413.101 and 431A.880 by sections 7 and 8 of this 2021 Act and the repeal of ORS 431A.885 by section 9 of this 2021 Act.**

LOCAL PUBLIC HEALTH REGULATION

SECTION 11. ORS 433.006 is amended to read:

433.006. (1) **Except as provided in subsection (2) of this section,** in response to each report of a reportable disease, the local public health administrator shall [*assure*] **ensure** that investigations and control measures, as prescribed by Oregon Health Authority rule, [*shall be*] **are** conducted.

(2) **If there has been a transfer of responsibility from a local public health authority to the Oregon Health Authority under ORS 431.382, the Oregon Health Authority shall ensure that investigations and control measures are conducted, as funding allows, pursuant to rules adopted by the Oregon Health Authority.**

SECTION 12. ORS 433.080 is amended to read:

433.080. When the Oregon Health Authority declares by rule that mandatory testing of source persons could help a defined class of workers from being infected or infecting others with the human immunodeficiency virus, the following apply:

(1) When a source person, after having been first requested to consent to testing by rules adopted under ORS 433.065, has refused or within a time period prescribed by rule of the authority has failed to submit to the requested test, except when the exposed person has knowledge that the exposed person has a history of a positive HIV test, the exposed person may seek mandatory testing of the source person by filing a petition with the circuit court for the county in which the exposure occurred. The form for the petition shall be as prescribed by the authority and shall be obtained from the local public health department **or the Oregon Health Authority if there has been a transfer of responsibility under ORS 431.382.**

(2) The petition shall name the source person as the respondent and shall include a short and plain statement of facts alleging:

(a) The petitioner is a worker subjected to an occupational exposure or a person who has been subjected to a substantial exposure by a worker administering health care and the respondent is the source person;

(b) The petitioner is in the class of workers defined by rule of the authority under this section;

(c) All procedures for obtaining the respondent's consent to an HIV test by rules adopted under ORS 433.065 have been exhausted by the petitioner and the respondent has refused to consent to the test, or within the time period prescribed by rule of the authority has failed to submit to the test;

(d) The petitioner has no knowledge that the petitioner has a history of a positive HIV test and has since the exposure, within a time period prescribed by rule of the authority, submitted a specimen from the petitioner for an HIV test; and

(e) The injury that petitioner is suffering or will suffer if the source person is not ordered to submit to an HIV test.

(3) The petition shall be accompanied by the certificate of the local public health administrator **or State Health Officer if there has been a transfer of responsibility under ORS 431.382** declaring that, based upon information in the possession of the administrator, the facts stated in the allegations under subsection (2)(a), (b) and (c) of this section are true.

(4) Upon the filing of the petition, the court shall issue a citation to the respondent stating the nature of the proceedings, the statutes involved and the relief requested and, that if the respondent does not appear at the time and place for hearing stated in the citation, that the court will order the relief requested in the petition.

(5) The citation shall be served on the respondent together with a copy of the petition by the county sheriff or deputy. The person serving the citation and petition shall, immediately after service thereof, make a return showing the time, place and manner of such service and file it with the clerk of the court.

(6) The hearing shall be held within three days of the service of the citation upon the respondent. The court may for good cause allow an additional period of 48 hours if additional time is requested by the respondent.

(7) Both the petitioner and the local public health administrator **or State Health Officer if there has been a transfer of responsibility under ORS 431.382** certifying to the matter alleged in the petition shall appear at the hearing. The hearing of the case shall be informal with the object of resolving the issue before the court promptly and economically between the parties. The parties shall be entitled to subpoena witnesses, to offer evidence and to cross-examine. The judge may examine witnesses to insure a full inquiry into the facts necessary for a determination of the matter before the court.

(8) After hearing all of the evidence, the court shall determine the truth of the allegations contained in the petition. The court shall order the respondent to submit to the requested test by a licensed health care provider without delay if, based upon clear and convincing evidence, the court finds that:

(a) The allegations in the petition are true;

(b) The injury the petitioner is suffering or will suffer is an injury that only the relief requested will adequately remedy; and

(c) The interest of the petitioner in obtaining the relief clearly outweighs the privacy interest of the respondent in withholding consent.

(9) If the court does not make the finding described in subsection (8) of this section, the court shall dismiss the petition.

(10) Failure to obey the order of the court shall be subject to contempt proceedings pursuant to law.

SECTION 13. ORS 452.010 is amended to read:

452.010. As used in this section and ORS 452.020 to 452.300, unless the context requires otherwise:

- (1) "County court" includes board of county commissioners.
- (2) "District" means a vector control district established for the prevention, control or eradication of public health vectors and predatory animals.
- [3] "Health officer" means a local public health administrator as defined in ORS 431.003.]
- [4] (3) "Integrated pest management methods" means the processes described in ORS 634.650 (1).
- (4) **"Local public health administrator" has the meaning given that term in ORS 431.003.**
- (5) "Pesticide use plan" means an annual plan created by a vector control district or a county court that describes anticipated pesticide use.
- (6) "Predatory animals" has the meaning given that term in ORS 610.002.
- (7) "Public health vectors" means arthropods and vertebrates of public health significance and those insects included within the family Chironomidae of the order Diptera. The term does not include any domesticated animal.
- (8) "Vector habitat" means any area where public health vectors are found.

SECTION 14. ORS 452.080 is amended to read:

452.080. (1) After an order is entered forming a district, the county court of the county in which the district is situated shall *[forthwith]* appoint a governing board of five trustees. *[each of whom shall]* **Each trustee appointed under this subsection must** be a resident and elector of the district.

[(2) The trustees shall hold office for four years and until their successors are appointed and qualified, except that for each new board of five trustees one member shall be appointed for a term of one year, one for a term of two years, one for a term of three years and two for a term of four years.]

(2)(a) Except as provided in paragraph (b) of this subsection, the term of office of a trustee is four years, and a trustee shall serve in office until a successor is appointed.

(b) For each new board of trustees established, trustees shall be appointed as follows:

- (A) One trustee for a one-year term;**
- (B) One trustee for a two-year term;**
- (C) One trustee for a three-year term; and**
- (D) Two trustees for a four-year term.**

(3) Each trustee shall take an oath to faithfully perform the duties of office. The oath shall be filed with the county clerk.

(4) The board of trustees shall elect a president, a secretary and a treasurer at the first meeting of each calendar year. Officers shall serve for one calendar year.

(5) All *[health officers]* **local public health administrators or their designees** with offices in the district shall be ex officio members of the board of trustees without vote and shall be offered the opportunity to assist in the creation of district plans.

(6) The board of trustees may compensate a trustee in an amount not exceeding \$100 per year for attendance at conferences that provide training and education to carry out trustee duties under ORS 452.110.

(7) The board of trustees may adopt a resolution to change the name of the district. The board shall file a copy of a resolution changing the name of the district with the Secretary of State and the county clerk within 10 days after adopting the resolution. Following a name change, the district name must contain the words:

- (a) Vector control district;
- (b) Mosquito and vector control district;
- (c) Mosquito control district; or
- (d) Vector and predatory animal control district.

SECTION 15. ORS 452.120 is amended to read:

452.120. The county court shall:

(1) Call special meetings of the board of trustees of the district for the purposes of investigation and supervision of [its] the district's affairs. At least one meeting shall be called annually for the purpose of reviewing the activities of the district.

(2) Hold hearings of complaints of other interested persons.

(3) Require the board to furnish by February 1 of each year a proposed annual work program which shall include an estimate of funds required for the next year and a description of the work contemplated and the methods to be employed by the district.

(4) Approve, after consultation with the [health officers] local public health administrators or their designees, the annual work program of the district before any work contracts or operations are entered into by the board.

(5) Require the board to furnish by February 1 of each year an annual report covering moneys expended, methods employed and work accomplished during the past fiscal year.

SECTION 16. ORS 452.160 is amended to read:

452.160. (1)(a) In addition to or in lieu of the tax levy provided for by ORS 452.153, the board of trustees of any district may, at the times and in the manner provided by law for public corporations, furnish to the county court and county accountant an estimate and statement, made pursuant to the budget laws of the state, of the amount of money necessary for all purposes required under ORS 452.020 to 452.170 during the next ensuing fiscal year.

(b) Subject to paragraph (c) of this subsection, the county court may include the amount of the estimate [so] made under paragraph (a) of this subsection, or any portion [thereof] of the estimate, in the annual budget of the county.

(c) [However, in no one year shall the amount be greater than enough to raise the amount] The amount described in paragraph (b) of this subsection may not, in any one year, be greater than enough to raise the amount determined by the board of trustees under paragraph (a) of this subsection, and approved by the county court and the [health officers] local public health administrators or their designees on the board. The amount budgeted, when added to any taxes levied under ORS 452.153, shall not exceed two-tenths of one percent (0.002) of the real market value of all taxable property within the district, computed in accordance with ORS 308.207.

(2) The county court, thereafter at the time and in the manner of levying taxes for state and county purposes, may levy a tax on all the taxable property in the district sufficient to raise the amount of the estimate made by the board of trustees of the district.

(3) All taxes levied under this section shall be computed and entered on the assessment and tax rolls of the county and collected at the same time and in the same manner as state and county taxes. When collected, the taxes shall be paid into the county treasury for the use of the district. Such funds may be withdrawn only upon warrants issued by the proper authorities of the district.

SECTION 17. (1) The amendments to ORS 433.006, 433.080, 452.010, 452.080, 452.120 and 452.160 by sections 11 to 16 of this 2021 Act become operative on January 1, 2022.

(2) The Oregon Health Authority and a local public health authority may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the Oregon Health Authority and the local public health authority to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the Oregon Health Authority and the local public health authority by the amendments to ORS 433.006, 433.080, 452.010, 452.080, 452.120 and 452.160 by sections 11 to 16 of this 2021 Act.

SCHOOL-BASED HEALTH SERVICES

SECTION 18. Section 1, chapter 601, Oregon Laws 2019, is amended to read:

Sec. 1. (1) The Oregon Health Authority, in consultation with the Department of Education, shall select 10 school districts or education service districts to receive planning grants for district planning and technical assistance. Each district receiving a grant, beginning on or after July 1, 2019, and concluding before July 1, 2021, shall:

(a) Evaluate the need for school-based health services in their respective communities; and
(b) Develop a plan that addresses the need identified in paragraph (a) of this subsection by drafting a proposal for a school-based health center as defined in ORS 413.225 or by designing a pilot program as described in subsection (5)(b) of this section to test an alternative approach to providing school-based health services.

(2) Each grantee shall consult with a nonprofit organization with experience in organizing community projects, or a local organization that coordinates with a statewide nonprofit organization, to facilitate the planning process and to provide technical assistance.

(3) Each grantee shall solicit community participation in the planning process, including the participation of the local public health authority, any federally qualified health centers located in the district, a regional health equity coalition, if any, serving the district and every coordinated care organization with members residing in the district.

(4) The Oregon Health Authority may contract with a statewide nonprofit organization with experience in supporting school-based health centers to create tools and provide support to grantees during the community engagement and planning process.

(5) At the conclusion of the two-year planning process[.]

[*(a) The authority shall select at least six school-based health center medical sponsors to each receive operating funds based on a school-based health center funding formula, to*], **the authority shall select up to 10 entities in respective grantee school districts or education service districts to receive operating funds to either:**

(a) Open a state-certified school-based health center [*in respective grantee school districts or education service districts.*], **based on a school-based health center funding formula; or**

(b) [*Contingent upon available funds, the authority may select up to four school districts or education service districts to each receive operating funds, for a five-year period, to*] **Pilot, for a five-year period,** an approach to providing school-based health services as an alternative model to the school-based health center model. The alternative approach pilot programs may be designed to focus services on a specific community need, such as a need for mental health services, school nursing services, dental services, primary care or trauma-informed services, and may:

(A) Involve a partnership with a coordinated care organization, a federally qualified health center, a local public health authority or another major medical sponsor; and

(B) Identify a process for billing insurance, medical assistance or another third-party payer, or identify other funding, for the cost of services.

(6) By the end of the fourth year of the five-year period described in subsection (5)(b) of this section:

(a) Each school district or education service district piloting an alternative approach to providing school-based health services either commits to establish a school-based health center or proposes an alternative model to the authority and the Legislative Assembly.

(b) The authority may use the data collected and the recommendations of the school districts to adopt rules establishing flexible, outcome-based criteria for certification of the alternative approaches developed and implemented by the [*four*] grantees **piloting alternative models under subsection (5)(b) of this section.**

(7) As used in this section, “regional health equity coalition” means a coalition that:

(a) Is independent of coordinated care organizations and government agencies, community-led, cross-sector and focused on addressing rural and urban health inequities for communities of color, Oregon’s federally recognized Indian tribes, immigrants, refugees, migrant and seasonal farm workers, low-income populations, persons with disabilities and persons who are lesbian, gay, bisexual, transgender or questioning, with communities of color as the priority;

(b) May include as member organizations a federally recognized Indian tribe, a culturally specific organization, a social service provider, a health care organization, a public health research organization, a behavioral health organization, a private foundation or a faith-based organization;

(c) Develops governance structures that include members of communities impacted by health inequities;

- (d) Has a decision-making body on which more than half of the persons are self-identified persons of color and more than half of the persons experience health inequities;
- (e) Prioritizes selection of organizational representatives who are self-identified persons of color or have a role related to health equity;
- (f) Operates on a model that honors community wisdom by promoting solutions that build on community strengths and recognizes the impact of structural, institutional and interpersonal racism on the health and well-being of communities of color; and
- (g) Focuses on:
 - (A) Meaningful community engagement;
 - (B) Coalition building, developing a governance structure for the coalition and creating operating systems for the daily and long term functioning of the coalition led by individuals with demonstrated leadership and expertise in promoting and improving health equity;
 - (C) Building capacity and leadership among coalition members, staff and decision-making bodies to address health equity and the social determinants of health; and
 - (D) Developing and advocating for policy, system and environmental changes to improve health equity in this state.

HEALTH LICENSING OFFICE

SECTION 19. Section 23, chapter 456, Oregon Laws 2019, is amended to read:

Sec. 23. The amendments to ORS [676.150,] 676.560, 676.565, 676.579, [676.590, 676.595,] 676.608, 676.612, 676.613 and 676.622 by sections [13 to 22 of this 2019 Act] **14 to 16 and 19 to 22, chapter 456, Oregon Laws 2019**, apply to complaints and reports received on or after [the operative date specified in section 24 of this 2019 Act] **January 1, 2020**.

CAPTIONS

SECTION 20. The unit captions used in this 2021 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2021 Act.

EFFECTIVE DATE

SECTION 21. This 2021 Act takes effect on the 91st day after the date on which the 2021 regular session of the Eighty-first Legislative Assembly adjourns sine die.

Passed by Senate March 11, 2021

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House May 26, 2021

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Tina Kotek, Speaker of House

Received by Governor:

.....M.,....., 2021

Approved:

.....M.,....., 2021

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2021

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Shemia Fagan, Secretary of State