

HB 2528 A -A3, -A4, -A5, -A6 STAFF MEASURE SUMMARY

House Committee On Revenue

Prepared By: Jonathan Hart, Economist

Sub-Referral To: Joint Committee On Ways and Means

Meeting Dates: 5/13, 5/29, 6/3, 6/4

WHAT THE MEASURE DOES:

Adds nicotine derived from any source to the definition of tobacco products for purposes of regulation and taxation. Repeals the criminal prohibition of sales of tobacco products and inhalant delivery systems to a person under 21 and replaces it with a civil prohibition enforced by the Oregon Health Authority (OHA). Prohibits distributing, offering, or providing free samples of tobacco/nicotine products or inhalant delivery systems. Excludes products approved by US Food and Drug Administration as tobacco cessation products from taxation. Requires sale of tobacco and nicotine products to occur at licensed premises. Changes to regulation apply beginning October 1, 2025, and the taxation of additional nicotine products applies beginning January 1, 2027. Takes effect on 91st day following sine die.

ISSUES DISCUSSED:

- Existing Federal and Oregon regulations and enforcement for nicotine products
- FDA approval of cessation products versus marketing approval
- Use of nicotine products as alternative to products containing tobacco
- Penalties for selling products to people over 21
- Risks and benefits of nicotine products versus tobacco products

EFFECT OF AMENDMENT:

-A3 Replaces the bill.

Removes the provisions related to taxation from the bill, and retains regulation provisions.

-A4 Replaces the bill.

Same as the -A3 amendment, but OHA rulemaking authority in the bill is limited to prohibition on selling tobacco and nicotine products to people under 21.

-A5 Replaces the bill.

Same as the -A3 amendment, but replaces penalties that currently may not be more than \$5,000 per violation in ORS 431A.178 with penalty schedule of \$1,000 for first violation, \$2,000 for second, \$3,500 for third, and \$5,000 for subsequent violations.

-A6 Replaces the bill.

Same as the -A3 amendment, but explicitly states that tobacco products do not include foods containing trace amounts of naturally occurring nicotine.

BACKGROUND:

Oregon's tobacco and nicotine taxes apply to three broad categories of products:

- Cigarettes - taxed at \$3.33 per pack of 20 cigarettes
- Moist Snuff - taxed at \$1.86 per ounce with a minimum of \$2.24 per container (rate as of July 2024 for any product containing tobacco that is not intended to be combusted or placed in nasal cavity)

HB 2528 A -A3, -A4, -A5, -A6 STAFF MEASURE SUMMARY

- All other tobacco products - taxed at 65% of wholesale price (includes Inhalant Delivery Systems, cigars have maximum tax of \$1 each)

Products other than inhalant delivery systems that contain nicotine but not tobacco are not taxed or regulated under current Oregon tobacco laws. HB 2528 would add products with nicotine from any source to Oregon regulation.

The products are included in federal regulation. In 2020 Congress raised the minimum age to purchase tobacco products to 21. In 2022, Congress expanded the definition of tobacco products for regulation to include products containing "nicotine from any source" in the Consolidated Appropriations Act. The U.S. Food and Drug administration has specifically noted that nicotine pouches are subject to regulation.

HB 2528A would add products containing nicotine from any source to taxation as other tobacco products at 65% of wholesale price. HB 2528A also creates a tax exclusion for products approved as cessation products by the US Food and Drug Administration.

While many products would be added to regulation and to taxation as other tobacco products under the bill, the primary category of additional products are [nicotine pouches](#). An oral nicotine pouch is a small bag that contains nicotine and some other ingredients, but it does not contain tobacco leaf. Other products include nicotine lozenges that look like small hard candies and as they dissolve, the nicotine is absorbed by the mouth. The leading nicotine pouch in the United States is ZYN, with owner [Philip Morris International reporting](#) shipments of 202 million cans (usually 15 pouches each) in the first quarter of 2025, and a market share around 70 percent of value and 60 percent of volume.