

## B-Engrossed House Bill 2528

Ordered by the House June 6  
Including House Amendments dated April 15 and June 6

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Tina Kotek 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. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act changes some laws that relate to products with tobacco or nicotine derived from any source. (Flesch Readability Score: 60.1).

Adds "nicotine derived from any source" to the definitions of "inhalant delivery system" and "tobacco products." Repeals existing criminal prohibition on the sale of inhalant delivery systems or tobacco products to a person under 21 years of age and replaces the repealed law with a civil prohibition enforced by the Oregon Health Authority. Authorizes imposition of civil penalties for violations.

Establishes a civil prohibition on providing, without compensation, inhalant delivery systems or tobacco products.

Authorizes the authority to adopt rules to administer certain laws that apply to inhalant delivery systems and tobacco products.

Requires any sale of cigarettes, inhalant delivery systems or smokeless tobacco products to occur at licensed premises.

*[Expands the definition of "tobacco products" for taxation purposes to include nicotine pouches, nicotine lozenges and other products containing nicotine derived from any source.]*

Takes effect on the 91st day following adjournment sine die.

### A BILL FOR AN ACT

Relating to public health; creating new provisions; amending ORS 180.441, 431A.175 and 431A.183; repealing ORS 167.750 and 167.755; and prescribing an effective date.

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

**SECTION 1.** ORS 431A.175 is amended to read:

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

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

(i) A device that can be used to deliver [*nicotine or*] cannabinoids **or nicotine derived from any source** in the form of a vapor or aerosol to a person inhaling from the device; or

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

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

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

(ii) Tobacco products.

(b) "Tobacco products" means:

(A) **Any product that contains, is made from or is derived from tobacco or nicotine de-**

**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 **rived from any source that is intended or likely to be used for human consumption by any**  
 2 **means, including but not limited to** bidis, cigars, cheroots, stogies, periques, granulated, plug cut,  
 3 crimp cut, ready rubbed and other smoking tobacco, snuff, snuff flour, cavendish, plug and twist to-  
 4 bacco, fine-cut and other chewing tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings  
 5 of tobacco and other forms of tobacco[,] **and oral nicotine pouches, nicotine lozenges and other**  
 6 **products containing nicotine derived from any source** *[prepared in a manner that makes the to-*  
 7 *bacco suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking];*

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

9 (C) A device that:

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

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

14 (2) It is unlawful:

15 *[(a) To violate ORS 167.755.]*

16 **(a) To distribute, sell or offer for sale in this state tobacco products or inhalant delivery**  
 17 **systems to a person under 21 years of age. A business entity or person who is an owner of**  
 18 **a business entity that is engaged in the retail sale of tobacco products or inhalant delivery**  
 19 **systems violates this paragraph if the owner or an employee, agent or other representative**  
 20 **of the business entity distributes, sells or offers for sale tobacco products or inhalant deliv-**  
 21 **ery systems to a person under 21 years of age.**

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

25 (c) To fail as a retailer of inhalant delivery systems to post a notice in a location that is clearly  
 26 visible to the seller and the purchaser of the inhalant delivery systems that it is unlawful to sell  
 27 inhalant delivery systems to persons under 21 years of age. The Oregon Health Authority shall  
 28 adopt by rule the content of the notice required under this paragraph.

29 (d) To distribute, sell or *[allow to be sold]* **offer for sale in this state** an inhalant delivery  
 30 system if the inhalant delivery system is not labeled in accordance with rules adopted by the au-  
 31 thority.

32 (e) To distribute, sell or *[allow to be sold]* **offer for sale in this state** an inhalant delivery  
 33 system if the inhalant delivery system is not packaged in child-resistant safety packaging, as re-  
 34 quired by the authority by rule.

35 (f) To distribute, sell or *[allow to be sold]* **offer for sale in this state** an inhalant delivery sys-  
 36 tem if the inhalant delivery system is packaged in a manner that is attractive to minors, as deter-  
 37 mined by the authority by rule.

38 (g) To distribute, sell or *[allow to be sold]* **offer for sale in this state** cigarettes in any form  
 39 other than a sealed package that contains at least 20 cigarettes.

40 **(h) To distribute, offer or otherwise provide, without compensation, tobacco products or**  
 41 **inhalant delivery systems.**

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

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44 NOTICE

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

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 6 **(4) The authority may adopt rules necessary for the administration of ORS 431A.175,**  
 7 **431A.178 and 431A.183.**

8 [(4)] (5) Rules adopted under subsection (2)(d), (e) and (f) of this section must be consistent with  
 9 any regulation adopted by the United States Food and Drug Administration related to labeling or  
 10 packaging requirements for inhalant delivery systems.

11 **SECTION 2.** ORS 180.441 is amended to read:

12 180.441. (1)(a) A person engaged in the business of selling cigarettes, inhalant delivery systems  
 13 or smokeless tobacco products for profit may not ship or transport, or cause to be shipped or  
 14 transported, cigarettes, inhalant delivery systems or smokeless tobacco products ordered or pur-  
 15 chased by mail or telephone or through a computer or other electronic network to any person in this  
 16 state other than a distributor or retailer.

17 (b) Paragraph (a) of this subsection does not apply to a freight forwarder or motor carrier, as  
 18 those terms are defined in 49 U.S.C. 13102, as in effect on August 8, 2017, or an air carrier, as de-  
 19 fined in 49 U.S.C. 40102, as in effect on August 8, 2017.

20 (2) A retailer may not sell cigarettes, inhalant delivery systems or smokeless tobacco products  
 21 unless the retailer or an employee of the retailer makes the sale to the purchaser in person as part  
 22 of a face-to-face exchange **that occurs on premises, as defined in ORS 431A.190, that are li-**  
 23 **censed under ORS 431A.198 or an ordinance, rule or resolution adopted by a local government**  
 24 **as defined in ORS 174.116.**

25 (3) A person may not knowingly provide substantial assistance to a person that is violating  
 26 subsection (1) or (2) of this section.

27 **SECTION 3.** ORS 431A.183 is amended to read:

28 431A.183. (1)(a) The Oregon Health Authority may enter into an agreement with federal agencies  
 29 to assist the authority in monitoring and enforcing federal laws and regulations related to tobacco  
 30 products or inhalant delivery systems.

31 (b) The authority may commission employees of the authority as federal officers for the purpose  
 32 of carrying out the duties prescribed under an agreement entered into under paragraph (a) of this  
 33 subsection.

34 (c) The authority may adopt rules and take any action necessary to carry out the authority's  
 35 duties as established under an agreement entered into under paragraph (a) of this subsection.

36 (2)(a) The authority may enter into an agreement with federal, state and local government  
 37 agencies, including federal, state and local law enforcement agencies, to assist the authority in  
 38 carrying out the authority's duties under ORS 431A.175 and to conduct random, unannounced in-  
 39 spections of wholesalers and retailers of tobacco products or inhalant delivery systems to ensure  
 40 compliance with the laws of this state designed to discourage the use of tobacco products and  
 41 inhalant delivery systems by persons under 21 years of age, including ORS [167.755,] 167.760, 167.765,  
 42 167.770, 167.775, 167.780 and 431A.175.

43 (b) The authority shall ensure that a retailer is inspected as described in this subsection at least  
 44 once each year. A retailer that is found to be out of compliance with the laws described in para-  
 45 graph (a) of this subsection may be reinspected as the authority determines necessary.

(c) The authority may adopt rules to carry out paragraph (b) of this subsection.

(3)(a) If the authority enters into an agreement with the Department of State Police under subsection (2) of this section, the department may employ retired state police officers who are active reserve officers. Service by a retired state police officer under this paragraph is subject to ORS 238.082.

(b) The department may not use the services of a retired state police officer to displace an active state police member.

(4)(a) The authority may apply for and accept moneys from the federal government or other public or private sources and, in accordance with any federal restrictions or other funding source restrictions, use those moneys to carry out the duties and functions related to preventing the use of tobacco products or inhalant delivery systems by persons who are not of the minimum age to purchase tobacco products or inhalant delivery systems.

(b) Moneys received by the authority under paragraph (a) of this subsection shall be deposited in the Oregon Health Authority Fund established under ORS 413.101. Moneys subject to a federal restriction or other funding source restriction must be accounted for separately from other fund moneys.

(5)(a) The authority shall submit a written report each biennium to the Governor and to the appropriate committee or interim committee of the Legislative Assembly to which matters of public health are assigned.

(b) The report submitted under this subsection must contain information describing:

(A) The activities carried out to enforce the laws listed in subsection (2) of this section during the previous biennium;

(B) The extent of success achieved in reducing the availability of tobacco products and inhalant delivery systems to persons under 21 years of age; and

(C) The strategies to be utilized for enforcing the laws listed in subsection (2) of this section during the biennium following the report.

(6) The authority shall adopt rules for conducting random inspections of establishments that distribute or sell tobacco products or inhalant delivery systems. The rules shall provide that inspections may take place:

(a) Only in areas open to the public;

(b) Only during the hours that tobacco products or inhalant delivery systems are distributed or sold; and

(c) No more frequently than once a month in any single establishment unless a compliance problem exists or is suspected.

**SECTION 4. ORS 167.750 and 167.755 are repealed.**

**SECTION 5. (1) The amendments to ORS 431A.175 by section 1 of this 2025 Act become operative on October 1, 2025.**

**(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 431A.175 by section 1 of this 2025 Act.**

**SECTION 6. This 2025 Act takes effect on the 91st day after the date on which the 2025 regular session of the Eighty-third Legislative Assembly adjourns sine die.**