

HOUSE AMENDMENTS TO A-ENGROSSED HOUSE BILL 2528

By COMMITTEE ON REVENUE

June 6

1 On page 1 of the printed A-engrossed bill, line 2, delete “323.500,”.

2 Delete lines 3 and 4 and insert “431A.183; repealing ORS 167.750 and 167.755; and prescribing
3 an effective date.”.

4 Delete lines 6 through 18 and delete pages 2 through 7 and insert:

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

6 “431A.175. (1) As used in this section and ORS 431A.183:

7 “(a)(A) ‘Inhalant delivery system’ means:

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

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

13 “(B) ‘Inhalant delivery system’ does not include:

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

17 “(ii) Tobacco products.

18 “(b) ‘Tobacco products’ means:

19 “(A) **Any product that contains, is made from or is derived from tobacco or nicotine de-**
20 **rived from any source that is intended or likely to be used for human consumption by any**
21 **means, including but not limited to** bidis, cigars, cheroots, stogies, periques, granulated, plug cut,
22 crimp cut, ready rubbed and other smoking tobacco, snuff, snuff flour, cavendish, plug and twist to-
23 bacco, fine-cut and other chewing tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings
24 of tobacco and other forms of tobacco[,] **and oral nicotine pouches, nicotine lozenges and other**
25 **products containing nicotine derived from any source** [*prepared in a manner that makes the to-*
26 *bacco suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking*];

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

28 “(C) A device that:

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

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

33 “(2) It is unlawful:

34 “[*(a) To violate ORS 167.755.*]

35 “**(a) To distribute, sell or offer for sale in this state tobacco products or inhalant delivery**

1 systems to a person under 21 years of age. A business entity or person who is an owner of
2 a business entity that is engaged in the retail sale of tobacco products or inhalant delivery
3 systems violates this paragraph if the owner or an employee, agent or other representative
4 of the business entity distributes, sells or offers for sale tobacco products or inhalant deliv-
5 ery systems to a person under 21 years of age.

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

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

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

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

19 “(f) To distribute, sell or [allow to be sold] **offer for sale in this state** an inhalant delivery
20 system if the inhalant delivery system is packaged in a manner that is attractive to minors, as de-
21 termined by the authority by rule.

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

24 “(h) **To distribute, offer or otherwise provide, without compensation, tobacco products**
25 **or inhalant delivery systems.**

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

27 “ _____

28
29 NOTICE

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

33 “ _____

34
35 “(4) **The authority may adopt rules necessary for the administration of ORS 431A.175,**
36 **431A.178 and 431A.183.**

37 “[4] (5) Rules adopted under subsection (2)(d), (e) and (f) of this section must be consistent with
38 any regulation adopted by the United States Food and Drug Administration related to labeling or
39 packaging requirements for inhalant delivery systems.

40 “**SECTION 2.** ORS 180.441 is amended to read:

41 “180.441. (1)(a) A person engaged in the business of selling cigarettes, inhalant delivery systems
42 or smokeless tobacco products for profit may not ship or transport, or cause to be shipped or
43 transported, cigarettes, inhalant delivery systems or smokeless tobacco products ordered or pur-
44 chased by mail or telephone or through a computer or other electronic network to any person in this
45 state other than a distributor or retailer.

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

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

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

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

12 “431A.183. (1)(a) The Oregon Health Authority may enter into an agreement with federal agen-
13 cies to assist the authority in monitoring and enforcing federal laws and regulations related to to-
14 bacco products or inhalant delivery systems.

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

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

20 “(2)(a) The authority may enter into an agreement with federal, state and local government
21 agencies, including federal, state and local law enforcement agencies, to assist the authority in
22 carrying out the authority’s duties under ORS 431A.175 and to conduct random, unannounced in-
23 spections of wholesalers and retailers of tobacco products or inhalant delivery systems to ensure
24 compliance with the laws of this state designed to discourage the use of tobacco products and
25 inhalant delivery systems by persons under 21 years of age, including ORS [167.755,] 167.760, 167.765,
26 167.770, 167.775, 167.780 and 431A.175.

27 “(b) The authority shall ensure that a retailer is inspected as described in this subsection at
28 least once each year. A retailer that is found to be out of compliance with the laws described in
29 paragraph (a) of this subsection may be reinspected as the authority determines necessary.

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

31 “(3)(a) If the authority enters into an agreement with the Department of State Police under
32 subsection (2) of this section, the department may employ retired state police officers who are active
33 reserve officers. Service by a retired state police officer under this paragraph is subject to ORS
34 238.082.

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

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

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

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

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

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

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

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

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

14 “(a) Only in areas open to the public;

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

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

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

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

22 “**(2) The Oregon Health Authority may take any action before the operative date specified**
23 **in subsection (1) of this section that is necessary to enable the authority to exercise, on and**
24 **after the operative date specified in subsection (1) of this section, all of the duties, functions**
25 **and powers conferred on the authority by the amendments to ORS 431A.175 by section 1 of**
26 **this 2025 Act.**

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