

# House Bill 3559

Sponsored by Representative JAVADI; Representatives DIEHL, RESCHKE

## 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 **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act would make changes to the law for some products containing nicotine. (Flesch Readability Score: 69.9).

Prohibits distributing, selling, attempting to sell or allowing to be sold inhalant delivery systems in this state unless the inhalant delivery systems are listed in a directory maintained by the Attorney General.

Requires manufacturers of inhalant delivery systems who want the inhalant delivery systems to be listed in the directory to submit an annual certification to the Attorney General attesting to compliance with federal marketing authorization requirements. Imposes certification fees and penalties.

Defines "alternative nicotine products" and adds those products to existing provisions that apply to other tobacco products.

Clarifies licensing requirements for distributors and delivery sellers of tobacco products.

Prohibits the sale of flavored inhalant delivery systems that contain nicotine or nicotine analogues and that have not received a marketing authorization order from the United States Food and Drug Administration.

Establishes new age verification requirements for the sale of tobacco products.

Expands authority to seize and destroy unlawful tobacco products.

Declares an emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to nicotine; creating new provisions; amending ORS 180.205, 180.405, 180.451, 323.500,  
3 323.505, 323.632, 323.712, 323.727, 431A.175 and 431A.178; and declaring an emergency.

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

5 **SECTION 1. Section 2 of this 2025 Act is added to and made a part of ORS 180.400 to**  
6 **180.455.**

7 **SECTION 2. (1) No later than January 1 of each year, a manufacturer of an inhalant**  
8 **delivery system that is sold for retail sale in this state or to a consumer in this state,**  
9 **whether directly or through an importer, wholesaler, distributor, retailer or similar inter-**  
10 **mediary or intermediaries, shall execute and deliver to the Attorney General a certification,**  
11 **under penalty of perjury on a form and in a manner prescribed by the Attorney General, that**  
12 **the manufacturer is compliant with this section and that, for each inhalant delivery system**  
13 **sold for retail sale in this state:**

14 (a) **The manufacturer has received a marketing granted order from the United States**  
15 **Food and Drug Administration pursuant to 21 U.S.C. 387j; or**

16 (b) **The manufacturer has submitted a timely filed application for a premarket tobacco**  
17 **product to the United States Food and Drug Administration pursuant to 21 U.S.C. 387j, and**  
18 **the application:**

19 (A) **Remains under review by the United States Food and Drug Administration;**

20 (B) **Has received a denial order that has been and remains stayed or rescinded by the**  
21 **United States Food and Drug Administration; or**

**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 (C) Has received a denial order that has been and remains stayed or vacated by a court  
2 order.

3 (2) For each inhalant delivery system that is sold in this state, the certification form  
4 must list the:

5 (a) Brand name.

6 (b) Product name.

7 (c) Category, such as disposable vapor product, power unit, device, e-liquid cartridge, e-  
8 liquid pod or nicotine pouch.

9 (d) Flavor.

10 (3) A manufacturer must include with each annual certification form:

11 (a)(A) A copy of the marketing granted order issued by the United States Food and Drug  
12 Administration pursuant to 21 U.S.C. 387j;

13 (B) A copy of the acceptance letter issued by the United State Food and Drug Adminis-  
14 tration pursuant to 21 U.S.C. 387j for a timely filed application for a premarket tobacco  
15 product; or

16 (C) A copy of a document issued by the United States Food and Drug Administration or  
17 by a court confirming that the timely filed application for a premarket tobacco product has  
18 received a denial order that has been and remains stayed by an order of the United States  
19 Food and Drug Administration or a court, rescinded by the United States Food and Drug  
20 Administration, or vacated by a court; and

21 (b) A payment of \$\_\_\_\_\_ for each inhalant delivery system for which a manufacturer  
22 seeks certification.

23 (4) The information submitted by the manufacturer under subsection (3) of this section  
24 shall be considered confidential commercial or financial information and is exempt from  
25 disclosure under ORS 192.314. The manufacturer may redact certain confidential commercial  
26 or financial information provided under subsection (3) of this section. The Attorney General  
27 may not disclose such information except as required or authorized by law.

28 (5) A manufacturer required to submit a certification form under this section shall notify  
29 the Attorney General within 30 days of any material change to the certification form, in-  
30 cluding the issuance or denial of a marketing authorization or other order by the United  
31 States Food and Drug Administration pursuant to 21 U.S.C. 387j, or any other order or action  
32 by the United States Food and Drug Administration or any court that affects the ability of  
33 the inhalant delivery system to be introduced or delivered into interstate commerce for  
34 commercial distribution in the United States.

35 (6)(a) The Attorney General shall maintain and make publicly available on its official  
36 website a directory that lists:

37 (A) All the manufacturers of an inhalant delivery system for which a certification form  
38 has been submitted and approved by the Attorney General.

39 (B) All the inhalant delivery systems, including the content described in subsection (2)  
40 of this section, for which certification forms have been submitted and approved by the At-  
41 torney General.

42 (b) The Attorney General shall update the directory at least monthly to ensure accuracy  
43 and shall promptly notify licensed retailers, distributors, wholesalers and other interested  
44 parties of each update.

45 (7) A manufacturer or an inhalant delivery system may not be listed in the directory if

1 the Attorney General determines that any of the following apply:

2 (a) The manufacturer failed to provide a complete and accurate certification as required  
3 by subsection (1) of this section;

4 (b) The manufacturer submitted a certification that does not comply with all the re-  
5 quirements of subsection (2) or (3) of this section;

6 (c) The manufacturer sold an inhalant delivery system in this state in violation of this  
7 section; or

8 (d) The manufacturer submitted a certification form that contained false information,  
9 material misrepresentations or omissions.

10 (8)(a) If the Attorney General determines that a deficiency exists in the certification  
11 form for a manufacturer or an inhalant delivery system, the Attorney General shall provide  
12 a notice of removal, including the reasons for removal, and an opportunity to cure any defi-  
13 ciency to the manufacturer.

14 (b) The Attorney General may not remove a manufacturer or an inhalant delivery system  
15 from the directory until at least 30 days after providing a notice of removal to the man-  
16 ufacturer. If the Attorney General provides the notice using the email address or facsimile  
17 number listed on the most recent certification form of the manufacturer, the notice is  
18 deemed sufficient and immediately received.

19 (c) A manufacturer shall have 15 days from the date of service of the notice of removal  
20 to cure any deficiency or otherwise establish that the manufacturer or inhalant delivery  
21 system are eligible for inclusion in the directory.

22 (d) If the Attorney General removes a manufacturer or an inhalant delivery system from  
23 the directory, a retailer in this state shall have 30 days from the date of removal to sell any  
24 inhalant delivery systems that were subject to removal.

25 (e) After 30 days from the date that an inhalant delivery system is removed:

26 (A) The inhalant delivery system is subject to seizure from distributors or retailers,  
27 forfeiture from distributors or retailers and destruction or disposal; and

28 (B) The inhalant delivery system may not be purchased or sold for retail sale in the this  
29 state.

30 (f) The person from whom an inhalant delivery system is seized under this subsection  
31 shall be responsible for the cost of the seizure, forfeiture, destruction or disposal of the  
32 seized products.

33 (9)(a) An inhalant delivery system that is not listed in the directory may not be sold for  
34 retail sale in this state, either directly or through an importer, distributor, wholesaler,  
35 retailer or similar intermediary or intermediaries.

36 (b) An inhalant delivery system that is not listed in the directory and intended for sale  
37 in this state is subject to seizure, forfeiture, destruction or disposal, and may not be pur-  
38 chased or sold for retail sale in this state, except as provided in subsection (8) of this section.

39 (c) The person from whom an inhalant delivery system is seized under this subsection  
40 shall be responsible for the cost of the seizure, forfeiture, destruction or disposal of the  
41 seized products.

42 (10) The following penalties apply to violations of this section:

43 (a) A retailer, distributor, wholesaler or importer who sells or offers for sale an inhalant  
44 delivery system for retail sale in this state that is not included in the directory shall be  
45 subject to:

1 (A) For a first violation, a civil penalty of \$500 for each inhalant delivery system sold or  
 2 offered for sale in violation of this section.

3 (B) For a second violation within a 12-month period, a civil penalty of at least \$750 but  
 4 not more than \$1,000 for each inhalant delivery system sold or offered for sale in violation  
 5 of this section and the licensee's license shall be suspended for 30 days.

6 (C) For a third violation within a 12-month period, a civil penalty of at least \$1,000 but  
 7 not more than \$1,500 for each inhalant delivery system sold or offered for sale in violation  
 8 of this section and the licensee's license shall be revoked.

9 (b) A manufacturer whose inhalant delivery systems are not listed in the directory and  
 10 who causes the products that are not listed to be sold for retail sale in this state, whether  
 11 directly or through an importer, distributor, wholesaler, retailer, or similar intermediary or  
 12 intermediaries, is subject to a civil penalty of \$10,000 for each individual inhalant delivery  
 13 system sold or offered for sale in violation of this section. In addition, a manufacturer that  
 14 falsely represents any information required by a certification form shall be guilty of a Class  
 15 C misdemeanor for each false representation.

16 (11) In an action to enforce this section, the State of Oregon shall be entitled to recover  
 17 costs, including the costs of investigation, expert witness fees and reasonable attorney fees.

18 (12)(a) Any nonresident or foreign manufacturer that has not registered to do business  
 19 in the State of Oregon shall, as a condition precedent to having its name or its products  
 20 listed in the directory, appoint and continually engage without interruption a registered  
 21 agent in this state for service of process on whom all process and any action or proceeding  
 22 arising out of the enforcement of this section may be served in any manner authorized by  
 23 law. Service on the agent constitutes legal and valid service of process on the manufacturer.  
 24 The manufacturer shall provide the name, address, telephone number and proof of the ap-  
 25 pointment and availability of the agent to the Attorney General.

26 (b) A manufacturer located outside of the United States shall, as an additional condition  
 27 precedent to having its products listed in the directory, cause each of its importers of any  
 28 of its products to be sold in the State of Oregon to appoint, and continually engage without  
 29 interruption, the services of an agent in the state in accordance with the provisions of this  
 30 section. All obligations of a manufacturer imposed by this section with respect to appoint-  
 31 ment of its agent shall also apply to the importers with respect to appointment of their  
 32 agents.

33 (c) The manufacturer shall provide notice to the Attorney General at least 30 days prior  
 34 to termination of the authority of an agent and shall provide proof to the satisfaction of the  
 35 Attorney General of the appointment of a new agent at least five days prior to the termi-  
 36 nation of an existing agent appointment. If an agent terminates an agency appointment, the  
 37 manufacturer shall notify the Attorney General of the termination within five days of the  
 38 date of termination and shall include proof to the Attorney General of the appointment of a  
 39 new agent.

40 (d)(A) A manufacturer whose inhalant delivery system is sold in this state without an  
 41 appointed agent as required by this subsection shall be deemed to have appointed the Secre-  
 42 tary of State as the agent and may be proceeded against in courts of this state by service  
 43 of process upon the Secretary of State.

44 (B) Notwithstanding subparagraph (A) of this paragraph, the appointment of the Secre-  
 45 tary of State as the agent does not satisfy the condition precedent for having the

1 manufacturer's products listed in the directory.

2 (13) Each retailer, distributor or wholesaler that sells or distributes an inhalant delivery  
 3 system in this state shall be subject to at least two unannounced compliance checks annually  
 4 for purposes of enforcing this section. Unannounced follow-up compliance checks of all  
 5 noncompliant retailers, distributors or wholesalers shall be conducted within 30 days after  
 6 any violation of this section. The Attorney General shall publish the results of all compliance  
 7 checks at least annually and shall make the results available to the public on request.

8 (14) The Attorney General may adopt any rules necessary to carry out this section.

9 (15) All moneys collected pursuant to this section from annual certifications and for vi-  
 10 olations shall be deposited into the Tobacco Enforcement Fund established under ORS  
 11 180.205, except that the Attorney General may use up to 10 percent of the funds to work with  
 12 the Oregon Health Authority, Department of Revenue and other appropriate state agencies  
 13 to develop Internet-based nicotine education programs.

14 (16) No later than January 31 of each year, the Attorney General shall submit a report  
 15 to the committees or interim committees of the Legislative Assembly related to public  
 16 health, in the manner described in ORS 192.245, regarding the status of the directory, man-  
 17 ufacturers and products included in the directory, revenue and expenditures related to ad-  
 18 ministration of this section and enforcement activities undertaken under this section.

19 **SECTION 3.** (1) No later than July 1, 2025, each manufacturer shall first execute and  
 20 deliver the certification described in section 2 (1) of this 2025 Act.

21 (2) No later than September 1, 2025, the Attorney General shall maintain and make pub-  
 22 licly available on the Attorney General's website the directory described in section 2 (6) of  
 23 this 2025 Act.

24 (3) The prohibition on the sale of inhalant delivery systems that are not included on the  
 25 directory described in section 2 (9) of this 2025 Act becomes operative on November 1, 2025,  
 26 or on the date that the Attorney General first makes the directory available on the Attorney  
 27 General's public website, whichever is later.

28 (4) The Attorney General shall submit the first report described in section 2 (16) of this  
 29 2025 Act no later than January 1, 2026.

30 (5) Notwithstanding section 2 (9) of this 2025 Act, each retailer shall have 60 days from  
 31 the date that the Attorney General first makes the directory available for inspection on the  
 32 Attorney General's public website to sell products that were in its inventory and not included  
 33 in the directory or to remove those products from its inventory.

34 (6) Notwithstanding section 2 (9) of this 2025 Act, each distributor or wholesaler shall  
 35 have 60 days from the date that the Attorney General first makes the directory available for  
 36 inspection on the Attorney General's public website to remove those products intended for  
 37 sale in the state from its inventory.

38 (7) Upon the initial publication of the directory on the Attorney General's public website,  
 39 the Attorney General shall promptly notify licensed retailers, distributors, wholesalers and  
 40 other interested parties.

41 **SECTION 4.** ORS 180.205 is amended to read:

42 180.205. (1) The Tobacco Enforcement Fund is established separate and distinct from the General  
 43 Fund. The Tobacco Enforcement Fund shall consist of:

44 (a) Moneys deposited into the fund under **section 2 of this 2025 Act**, ORS 180.450, 180.451,  
 45 180.491 and 323.804; and

(b) Moneys transferred to the fund under ORS 293.537.

(2) Moneys in the Tobacco Enforcement Fund are continuously appropriated to the Department of Justice for the purpose of enforcing the provisions of ORS 180.400 to 180.455, 180.465 to 180.494, 323.106, 323.804, 323.806 and 323.810 to 323.816. Moneys in the fund are not subject to allotment under ORS 291.234 to 291.260.

**SECTION 5.** ORS 180.405 is amended to read:

180.405. As used in ORS 180.400 to 180.455 and 323.106:

**(1) “Alternative nicotine product” has the meaning given that term in ORS 431A.175.**

[(1)] **(2)** “Brand family” means all styles of cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors, including, but not limited to, cigarettes labeled “menthol,” “lights,” “kings,” “100s” and any cigarettes sold under a brand name, alone or in conjunction with any other word, trademark, logo, symbol, motto, selling message, recognizable pattern of colors or other indicia of product identification, that are identical to, similar to or identifiable with a previously known brand of cigarettes.

[(2)] **(3)** “Cigarette” has the meaning given that term in ORS 323.800.

[(3)] **(4)** “Distributor” means a person who is licensed under ORS 323.105 or 323.530 and any other person who is a distributor for the purposes of ORS 323.005 to 323.482 or 323.500 to 323.645.

[(4)] **(5)** “Importer” has the meaning given that term in ORS 323.800.

[(5)(a)] **(6)(a)** “Inhalant delivery system” means:

(A) A device that can be used to deliver nicotine in the form of a vapor or aerosol to a person inhaling from the device; or

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

(b) “Inhalant delivery system” does not include:

(A) 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;

(B) If sold separately, battery chargers, straps or lanyards; or

(C) Marijuana items as defined in ORS 475C.009.

[(6)] **(7)** “Master Settlement Agreement” has the meaning given that term in ORS 323.800.

[(7)] **(8)** “Nonparticipating manufacturer” means any tobacco product manufacturer that is not a participating manufacturer.

[(8)] **(9)** “Participating manufacturer” has the meaning given that term in section II(jj) of the Master Settlement Agreement.

[(9)] **(10)** “Qualified escrow fund” has the meaning given that term in ORS 323.800.

[(10)] **(11)** “Retailer” means a person that sells cigarettes, inhalant delivery systems or smokeless tobacco products to individuals for personal consumption.

[(11)] **(12)** “Smokeless tobacco products” has the meaning given that term in ORS 323.810.

**(13) “Timely filed application for a premarket tobacco product” means an application accepted for filing under 21 U.S.C. 387j for an inhalant delivery system containing nicotine from tobacco marketed in the United States as of August 8, 2016, that was submitted to the United States Food and Drug Administration on or before September 9, 2020.**

[(12)] **(14)** “Tobacco product manufacturer” has the meaning given that term in ORS 323.800.

[(13)] **(15)** “Units sold” has the meaning given that term in ORS 323.800.

**SECTION 6.** ORS 180.451 is amended to read:

180.451. (1)(a) The Attorney General may bring a civil action in the name of the State of Oregon against a person who violates ORS 180.441 or for the purpose of seeking an injunction to restrain an actual or threatened violation of ORS 180.441 and compel compliance with ORS 180.441.

**(b) The Attorney General or a law enforcement agency may seize any alternative nicotine products or inhalant delivery systems from a distributor or retailer that are sold or offered for sale in violation of ORS 180.441. Upon seizure, the distributor or retailer shall be deemed to have forfeited the alternative nicotine products or inhalant delivery systems. Upon resolution of a civil action brought by the Attorney General, if any, the seized products may be destroyed or otherwise disposed of in accordance with federal law.**

(2) If a court determines that a person violated ORS 180.441, the court shall order the disgorgement of any profits, gain, gross receipts or other benefit from the violation. All moneys disgorged under this subsection must be deposited in the Tobacco Enforcement Fund established under ORS 180.205.

(3)(a) In any action brought pursuant to this section, the state may recover the costs of the investigation, the costs of the action, **the costs of seizing, storing, destroying or otherwise disposing of seized products**, reasonable attorney fees and a civil penalty for each violation, not to exceed \$5,000 per violation. A civil penalty imposed under this section must be imposed in the manner provided by ORS 183.745.

(b) For the purposes of this subsection, each shipment or transport of cigarettes, **alternative nicotine products**, inhalant delivery systems or smokeless tobacco products constitutes a separate violation.

(4) Unless expressly provided, the remedies or penalties under this section are cumulative to each other and to the remedies available under all other laws of this state.

**SECTION 7.** ORS 323.500 is amended to read:

323.500. As used in ORS 323.500 to 323.645, unless the context otherwise requires:

**(1) “Alternative nicotine product” has the meaning given that term in ORS 431A.175.**

[(1)] **(2) “Business” means any trade, occupation, activity or enterprise engaged in for the purpose of selling or distributing tobacco products in this state.**

[(2)] **(3) “Cigar” means a roll for smoking that is of any size or shape and that is made wholly or in part of tobacco, irrespective of whether the tobacco is pure or flavored, adulterated or mixed with any other ingredient, if the roll has a wrapper made wholly or in greater part of tobacco and if 1,000 of these rolls collectively weigh more than three pounds. “Cigar” does not include a cigarette, as defined in ORS 323.010.**

[(3)] **(4) “Consumer” means any person who purchases tobacco products in this state for the person’s use or consumption or for any purpose other than for reselling the tobacco products to another person.**

[(4)] **(5) “Contraband tobacco products” means tobacco products or packages containing tobacco products:**

(a) That do not comply with the requirements of ORS 323.500 to 323.645;

(b) That do not comply with the requirements of the tobacco products tax laws of the federal government or of other states;

(c) That bear trademarks that are counterfeit under ORS 647.135 or other state or federal trademark laws; or

(d) That have been sold, offered for sale or possessed for sale in this state in violation of ORS

1 180.486.

2 [(5)] (6) “Department” means the Department of Revenue.

3 [(6)] (7) “Distribute” means:

4 (a) Bringing, or causing to be brought, into this state from without this state tobacco products  
5 for sale, storage, use or consumption;

6 (b) Making, manufacturing or fabricating tobacco products in this state for sale, storage, use or  
7 consumption in this state;

8 (c) Shipping or transporting tobacco products to retail dealers in this state, to be sold, stored,  
9 used or consumed by those retail dealers;

10 (d) Storing untaxed tobacco products in this state that are intended to be for sale, use or con-  
11 sumption in this state;

12 (e) Selling untaxed tobacco products in this state; or

13 (f) As a consumer, being in possession of untaxed tobacco products in this state.

14 [(7)] (8) “Distributor” means:

15 (a) Any person engaged in the business of selling tobacco products in this state who brings, or  
16 causes to be brought, into this state from without the state any tobacco products for sale;

17 (b) Any person who makes, manufactures or fabricates tobacco products in this state for sale in  
18 this state;

19 (c) Any person engaged in the business of selling tobacco products without this state who ships  
20 or transports tobacco products to retail dealers in this state, to be sold by those retail dealers;

21 (d) Any person, including a retail dealer, who sells untaxed tobacco products in this state; or

22 (e) A consumer in possession of untaxed tobacco products in this state.

23 [(8)(a)] (9)(a) “Inhalant delivery system” means:

24 (A) A device that can be used to deliver nicotine in the form of a vapor or aerosol to a person  
25 inhaling from the device; or

26 (B) A component of a device described in this paragraph or a substance in any form sold for the  
27 purpose of being vaporized or aerosolized by a device described in this paragraph, whether the  
28 component or substance is sold separately or is not sold separately.

29 (b) “Inhalant delivery system” does not include:

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

33 (B) If sold separately, battery chargers, straps or lanyards; or

34 (C) Marijuana items as defined in ORS 475C.009.

35 [(9)] (10) “Manufacturer” means a person who manufactures tobacco products for sale.

36 [(10)] (11) “Moist snuff” means:

37 (a) Any finely cut, ground or powdered tobacco that is not intended to be smoked or placed in  
38 a nasal cavity; or

39 (b) Any other product containing tobacco that is intended or expected to be consumed without  
40 being combusted.

41 [(11)] (12) “Place of business” means any place where tobacco products are sold or where to-  
42 bacco products are manufactured, stored or kept for the purpose of sale or consumption, including  
43 any vessel, vehicle, airplane, train or vending machine.

44 [(12)] (13) “Retail dealer” means any person who is engaged in the business of selling or other-  
45 wise dispensing tobacco products to consumers. The term also includes the operators of or recipients



1 of revenue from all places such as smoke shops, cigar stores and vending machines, where tobacco  
 2 products are made or stored for ultimate sale to consumers.

3 [(13)] (14) “Sale” means any transfer, exchange or barter, in any manner or by any means, for  
 4 a consideration, and includes and means all sales made by any person. It includes a gift by a person  
 5 engaged in the business of selling tobacco products, for advertising, as a means of evading the pro-  
 6 visions of ORS 323.500 to 323.645, or for any other purpose.

7 [(14)] (15) “Taxpayer” includes a distributor or other person required to pay a tax imposed under  
 8 ORS 323.500 to 323.645.

9 [(15)] (16) “Tobacco products” means cigars, cheroots, stogies, periques, granulated, plug cut,  
 10 crimp cut, ready rubbed and other smoking tobacco, snuff, snuff flour, moist snuff, cavendish, plug  
 11 and twist tobacco, fine-cut and other chewing tobaccos, shorts, refuse scraps, clippings, cuttings and  
 12 sweepings of tobacco and other kinds and forms of tobacco, prepared in such manner as to be suit-  
 13 able for chewing or smoking in a pipe or otherwise, or both for chewing and smoking, **alternative**  
 14 **nicotine products** and inhalant delivery systems, but does not include cigarettes as defined in ORS  
 15 323.010.

16 [(16)] (17) “Untaxed tobacco products” means tobacco products for which the tax required under  
 17 ORS 323.500 to 323.645 has not been paid.

18 [(17)] (18) “Wholesale sales price” means the price paid for untaxed tobacco products to or on  
 19 behalf of a seller by a purchaser of the untaxed tobacco products.

20 **SECTION 8.** ORS 323.505 is amended to read:

21 323.505. (1) A tax is hereby imposed upon the distribution of all tobacco products, **except al-**  
 22 **ternative nicotine products**, in this state. The tax imposed by this section is intended to be a di-  
 23 rect tax on the consumer, for which payment upon distribution is required to achieve convenience  
 24 and facility in the collection and administration of the tax. The tax shall be imposed on a distributor  
 25 at the time the distributor distributes tobacco products.

26 (2) The tax imposed under this section shall be imposed at the rate of:

27 (a) Sixty-five percent of the wholesale sales price of cigars, but not to exceed one dollar per  
 28 cigar;

29 (b) One dollar and seventy-eight cents per ounce based on the net weight determined by the  
 30 manufacturer, in the case of moist snuff, except that the minimum tax under this paragraph is \$2.14  
 31 per retail container; or

32 (c) Sixty-five percent of the wholesale sales price of all tobacco products that are not **alterna-**  
 33 **tive nicotine products**, cigars or moist snuff.

34 (3) For reporting periods beginning on or after July 1, 2022, the rates of tax applicable to moist  
 35 snuff under subsection (2)(b) of this section shall be adjusted for each biennium according to the  
 36 cost-of-living adjustment for the calendar year. The Department of Revenue shall recompute the  
 37 rates for each biennium by adding to the rates in subsection (2)(b) of this section the product ob-  
 38 tained by multiplying the rates in subsection (2)(b) of this section by a factor that is equal to 0.25  
 39 multiplied by the percentage (if any) by which the monthly averaged U.S. City Average Consumer  
 40 Price Index for the 12 consecutive months ending August 31 of the prior calendar year exceeds the  
 41 monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending  
 42 August 31, 2020.

43 (4) If the tax imposed under this section does not equal an amount calculable to a whole cent,  
 44 the tax shall be equal to the next higher whole cent. However, the amount remitted to the Depart-  
 45 ment of Revenue by the taxpayer for each quarter shall be equal only to 98.5 percent of the total

1 taxes due and payable by the taxpayer for the quarter.

2 (5) A tax under this section is not imposed on inhalant delivery systems that are:

3 (a) Marketed and sold solely for the purpose of vaporizing or aerosolizing marijuana items as  
4 defined in ORS 475C.009; or

5 (b) Purchased in a medical marijuana dispensary that is registered under ORS 475C.833 by a  
6 person to whom a registry identification card has been issued under ORS 475C.783.

7 (6) No tobacco product shall be subject to the tax if the base product or other intermediate form  
8 thereof has previously been taxed under this section.

9 **SECTION 9.** ORS 323.632 is amended to read:

10 323.632. (1) A person commits the crime of unlawful distribution of tobacco products if the per-  
11 son knowingly sells or distributes, possesses or transports for sale or distribution or imports for sale  
12 or distribution tobacco products that do not comply with ORS 323.500 to 323.645 **or all other laws**  
13 **of this state that apply to sales of tobacco that occur entirely within Oregon.**

14 (2) The offense of unlawful distribution of tobacco products is classified as follows:

15 (a) If the amount of tobacco products tax avoided in committing the offense over a 90-day period  
16 totals less than \$1,000, the offense is a Class A misdemeanor.

17 (b) If the amount of tobacco products tax avoided in committing the offense over a 90-day period  
18 totals \$1,000 or more, but less than \$5,000, the offense is a Class C felony classified as crime cate-  
19 gory 3 of the sentencing guidelines grid of the Oregon Criminal Justice Commission.

20 (c) If the amount of tobacco products tax avoided in committing the offense over a 90-day period  
21 totals \$5,000 or more, but less than \$10,000, the offense is a Class C felony classified as crime cat-  
22 egory 5 of the sentencing guidelines grid of the Oregon Criminal Justice Commission.

23 (d) If the amount of tobacco products tax avoided in committing the offense over a 90-day period  
24 totals \$10,000 or more, the offense is a Class B felony classified as crime category 7 of the sen-  
25 tencing guidelines grid of the Oregon Criminal Justice Commission.

26 (3) Tobacco products sold, distributed, possessed, transported or imported in violation of sub-  
27 section (1) of this section are contraband and subject to seizure and forfeiture. If seized and forfeited  
28 under this subsection, the tobacco products shall be destroyed **or otherwise disposed of in ac-**  
29 **cordance with any applicable federal law.**

30 (4) In addition to any other sentence the court may impose upon a conviction under this section,  
31 the court may order the forfeiture of the instrumentalities used in violating this section and the  
32 proceeds resulting from a violation of this section.

33 (5) As used in this section, “tobacco products tax” means the amount of tax due under ORS  
34 323.500 to 323.645, if the tax were timely paid upon first distribution of the tobacco products in this  
35 state.

36 **SECTION 10.** ORS 323.712 is amended to read:

37 323.712. A person may not engage in delivery sales of tobacco **to a consumer** in this state  
38 without first obtaining a [*the applicable*] distributor’s license under ORS [*323.105 or*] 323.530 and any  
39 applicable retailer’s license required by a jurisdiction into which a delivery sale of tobacco is made.  
40 **A person who is both a distributor and a delivery seller may obtain a single combined license**  
41 **for each place of business.**

42 **SECTION 11.** ORS 323.727 is amended to read:

43 323.727. (1) Except as otherwise provided in this section:

44 (a) The first time a person violates a provision of ORS 323.700 to 323.730, the person shall be  
45 subject to a penalty of \$1,000 or five times the retail value of the tobacco involved in the violation,

1 whichever is greater; and

2 (b) In the case of a second or subsequent violation of ORS 323.700 to 323.730, the person shall  
 3 be subject to a penalty of \$5,000 or five times the retail value of the tobacco involved in the vio-  
 4 lation, whichever is greater.

5 (2) A person who knowingly violates a provision of ORS 323.700 to 323.730 or who knowingly  
 6 submits a false certification under ORS 323.709 under the name of another person:

7 (a) Shall be subject to a penalty of \$10,000 or five times the retail value of the tobacco involved,  
 8 whichever is greater; or

9 (b) May be imprisoned for a period of not more than five years.

10 (3) A person who accepts a purchase order for a delivery sale and, in connection with the sale,  
 11 fails to pay a tax due under ORS 323.005 to 323.482 or 323.500 to 323.645 shall pay a penalty of five  
 12 times the amount of tax due and not timely paid under ORS 323.005 to 323.482 or 323.500 to 323.645.

13 (4) The penalties prescribed under this section are in addition to and not in lieu of any other  
 14 penalty applicable under the laws of this state.

15 (5) Any tobacco sold or attempted to be sold in a delivery sale that does not meet the require-  
 16 ments of ORS 323.700 to 323.730 **or any other laws of this state that apply to sales of tobacco**  
 17 **that occur entirely within Oregon** may be immediately seized and subject to forfeiture. Tobacco  
 18 seized and forfeited under this subsection shall be destroyed **or otherwise disposed of in accord-**  
 19 **ance with any applicable federal laws.**

20 (6) Any fixtures, equipment, materials or other personal property on the premises of a person  
 21 who violates ORS 323.700 to 323.730 may be immediately seized and subject to forfeiture. Property  
 22 seized and forfeited under this subsection may be sold or destroyed.

23 **SECTION 12.** ORS 431A.175 is amended to read:

24 431A.175. (1) As used in this section and ORS 431A.183:

25 (a)(A) **“Alternative nicotine product” means any noncombustible product containing**  
 26 **nicotine from any source that is intended for human consumption, whether chewed, ab-**  
 27 **sorbed, dissolved, ingested, inhaled or consumed by any other means.**

28 (B) **“Alternative nicotine product” does not include any inhalant delivery system or to-**  
 29 **bacco product or any product regulated as a drug or device by the United States Food and**  
 30 **Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.**

31 (b) **“Flavored inhalant delivery system” means an inhalant delivery system or a bypro-**  
 32 **duct of an inhalant delivery system that imparts:**

33 (A) **An identifiable and predominant taste or aroma other than the taste or aroma of**  
 34 **tobacco, including but not limited to, tastes or aromas relating to any fruit, chocolate,**  
 35 **vanilla, honey, candy, cocoa, dessert, alcoholic beverage, menthol, mint, wintergreen, herb**  
 36 **or spice. An inhalant delivery system that does not impart an identifiable and predominant**  
 37 **taste or aroma is not a flavored inhalant delivery system solely for using additives or fla-**  
 38 **vorings or the provision of ingredient information; or**

39 (B) **A cooling sensation imparted during the consumption of the inhalant delivery system,**  
 40 **regardless of the presence of a taste or aroma.**

41 [(a)(A)] (c)(A) **“Inhalant delivery system” means:**

42 (i) A device that can be used to deliver nicotine, **a nicotine analogue** or cannabinoids in the  
 43 form of a vapor or aerosol to a person inhaling from the device; or

44 (ii) A component of a device described in this subparagraph or a substance in any form sold for  
 45 the purpose of being vaporized or aerosolized by a device described in this subparagraph, whether

1 the component or substance is sold separately or is not sold separately.

2 (B) “Inhalant delivery system” does not include:

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

6 (ii) Tobacco products.

7 **(d)(A) “Nicotine analogue” means a substance:**

8 **(i) The chemical structure of which is substantially similar to the chemical structure of**  
9 **nicotine; or**

10 **(ii) Which has, purports to have or is represented to have an effect on the central nerv-**  
11 **ous system that is similar to or greater than the effect on the central nervous system of**  
12 **nicotine.**

13 **(B) Factors relevant to determining whether a substance is a nicotine analogue include,**  
14 **but are not limited to:**

15 **(i) The marketing, advertising and labeling of the substance; and**

16 **(ii) Whether the substance has been manufactured, formulated, sold, distributed or**  
17 **marketed with the intent to avoid the provisions of this section or any other laws of this**  
18 **state that apply to the sale of tobacco products or inhalant delivery systems that occur en-**  
19 **tirely within Oregon.**

20 [(b)] (e) “Tobacco products” means:

21 (A) Bidis, cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed and  
22 other smoking tobacco, snuff, snuff flour, cavendish, plug and twist tobacco, fine-cut and other  
23 chewing tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of tobacco and other  
24 forms of tobacco, prepared in a manner that makes the tobacco suitable for chewing or smoking in  
25 a pipe or otherwise, or for both chewing and smoking;

26 (B) Cigarettes as defined in ORS 323.010 (1); [or]

27 **(C) A product that contains a nicotine analogue;**

28 **(D) An alternative nicotine product; or**

29 [(C)] **(E)** A device that:

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

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

34 (2) It is unlawful:

35 (a) To violate ORS 167.755.

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

39 (c) To fail as a retailer of **alternative nicotine products or** inhalant delivery systems to post  
40 a notice in a location that is clearly visible to the seller and the purchaser of the **alternative**  
41 **nicotine products or** inhalant delivery systems that it is unlawful to sell **alternative nicotine**  
42 **products or** inhalant delivery systems to persons under 21 years of age. The Oregon Health Au-  
43 thority shall adopt by rule the content of the notice required under this paragraph.

44 (d) To distribute, sell or allow to be sold an inhalant delivery system if the inhalant delivery  
45 system is not labeled in accordance with rules adopted by the authority.

1 (e) To distribute, sell or allow to be sold an inhalant delivery system if the inhalant delivery  
 2 system is not packaged in child-resistant safety packaging, as required by the authority by rule.

3 (f) To distribute, sell or allow to be sold an **alternative nicotine product or** inhalant delivery  
 4 system if the **alternative nicotine product or** inhalant delivery system is packaged in a manner  
 5 that is attractive to minors, as determined by the authority by rule.

6 (g) To distribute, sell or allow to be sold cigarettes in any form other than a sealed package that  
 7 contains at least 20 cigarettes.

8 **(h) To distribute, sell or allow to be sold to a person in this state a flavored inhalant**  
 9 **delivery system that contains nicotine or a nicotine analogue unless the flavored inhalant**  
 10 **delivery system has received marketing authorization from the United States Food and Drug**  
 11 **Administration under 21 U.S.C. 387j.**

12 **(i) To fail as a retailer of inhalant delivery systems or tobacco products to comply with**  
 13 **the age verification requirements described in subsection (5) of this section.**

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

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16  
 17 NOTICE

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

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22  
 23 (4) Rules adopted under subsection (2)(d), (e) and (f) of this section must be consistent with any  
 24 regulation adopted by the United States Food and Drug Administration related to labeling or pack-  
 25 aging requirements for inhalant delivery systems.

26 **(5)(a) Subject to ORS 807.750, prior to selling an inhalant delivery system or tobacco**  
 27 **product, a retailer shall:**

28 **(A) Visually verify that the purchaser matches the person reflected on the purchaser's**  
 29 **government-issued photo identification and, by using an electronic scanning or swiping**  
 30 **technology or other automated, software-based system, validate that the purchaser is at**  
 31 **least 21 years of age and the identification is not expired; or**

32 **(B) For a government-issued photo identification that cannot be electronically scanned**  
 33 **or swiped, visually validate that the purchaser matches the person reflected on the**  
 34 **government-issued photo identification and visually confirm that the identification presented**  
 35 **by the purchaser shows that the purchaser is at least 21 years of age and the identification**  
 36 **is not expired.**

37 **(b) Information collected as a result of complying with this section may not be sold to**  
 38 **another entity, organization or individual.**

39 **SECTION 13.** ORS 431A.178 is amended to read:

40 431A.178. (1) The Oregon Health Authority may impose a civil penalty against a person that  
 41 engages in the wholesale or retail sale of tobacco products or inhalant delivery systems, as those  
 42 terms are defined in ORS 431A.175, if the person violates:

43 (a) ORS 431A.175 or a rule adopted under ORS 431A.175; [or]

44 **(b) Section 2 of this 2025 Act; or**

45 [(b)] (c) A state law or rule or federal law or regulation that governs the wholesale or retail

1 sale of tobacco products or inhalant delivery systems for purposes related to public health and  
2 safety.

3 (2) A civil penalty imposed under this section may not be more than \$5,000 per violation.

4 (3) Amounts collected under this section shall be deposited in the General Fund.

5 (4) If a civil penalty is imposed under this section, a civil penalty may not be imposed for the  
6 commission of the same act under ORS 431A.216 or 431A.218.

7 **SECTION 14.** (1) Sections 2 and 3 of this 2025 Act and the amendments to statutes by  
8 sections 4 to 13 of this 2025 Act become operative on July 1, 2025.

9 (2) The Department of Justice, the Department of Revenue and the Oregon Health Au-  
10 thority may take any action before the operative date specified in subsection (1) of this sec-  
11 tion that is necessary to enable the Department of Justice, the Department of Revenue and  
12 the Oregon Health Authority to exercise, on or after the operative date specified in sub-  
13 section (1) of this section, all of the duties, functions and powers conferred on the Depart-  
14 ment of Justice, Department of Revenue and the Oregon Health Authority by sections 2 and  
15 3 of this 2025 Act and the amendments to statutes by sections 4 to 13 of this 2025 Act.

16 **SECTION 15.** This 2025 Act being necessary for the immediate preservation of the public  
17 peace, health and safety, an emergency is declared to exist, and this 2025 Act takes effect  
18 on its passage.  
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