

A-Engrossed Senate Bill 702

Ordered by the Senate April 14
Including Senate Amendments dated April 14

Sponsored by Senator REYNOLDS, Representatives PHAM H, MCLAIN, NERON, TRAN; Senators FREDERICK, GELSER BLOUIN, GOLDEN, JAMA, MANNING JR, PATTERSON, TAYLOR, Representatives BOWMAN, GAMBA, HUDSON, ISADORE, NGUYEN H (Presession filed.)

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 the law for some products containing tobacco or nicotine. The Act goes into effect when the Governor signs it. (Flesch Readability Score: 64.9).

[Digest: The Act bans the sale of flavored products with tobacco or nicotine. (Flesch Readability Score: 67.7).]

Prohibits distributing, selling, attempting to sell or offering to sell flavored inhalant delivery system products or flavored tobacco products in this state, **except from premises established as a store by the Oregon Liquor and Cannabis Commission and licensed by the Department of Revenue or authorized by a local government.** Defines "flavored inhalant delivery system product" and "flavored tobacco product."

Prohibits distributing, offering or providing, without compensation, any tobacco product or inhalant delivery system.

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

Authorizes local governments to adopt regulations that are stricter than state law on the sale of inhalant delivery system products or tobacco products.

Declares an emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to public health; creating new provisions; amending ORS 167.750, 180.441, 431A.175,
3 431A.190 and 431A.194; and declaring an emergency.

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

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) "Characterizing flavor" means:**

8 **(i) An artificial or natural taste, flavor, aroma, smell or sensation not attributable ex-**
9 **clusively to tobacco that an ordinary consumer would distinguish prior to or during con-**
10 **sumption, including but not limited to a taste, flavor, aroma, smell or sensation related to**
11 **menthol, mint, wintergreen, chocolate, cocoa, vanilla, honey or molasses or any fruit, candy,**
12 **dessert, alcoholic beverage, herb, spice, chill, ice, fresh, arctic or frost or a minty or cooling**
13 **effect.**

14 **(ii) A product is presumed to have a characterizing flavor if the manufacturer, importer,**
15 **distributor, wholesaler or retailer of the product, or a third party authorized by the man-**
16 **ufacturer, importer, distributor, wholesaler or retailer of the product, makes an express or**
17 **implied public statement that describes the product as producing a taste, flavor, aroma,**
18 **smell or sensation not attributable exclusively to tobacco, including but not limited to**
19 **menthol, mint, wintergreen, chocolate, cocoa, vanilla, honey or molasses or any fruit, candy,**

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 **dessert, alcoholic beverage, herb, spice, chill, ice, fresh, arctic or frost or a minty or cooling**
2 **effect.**

3 **(B) “Characterizing flavor” does not include the artificial or natural taste, flavor, aroma,**
4 **smell or sensation of cannabis.**

5 **(b) “Flavored inhalant delivery system product” means an inhalant delivery system**
6 **product that imparts a characterizing flavor.**

7 **(c) “Flavored tobacco product” means a tobacco product that imparts a characterizing**
8 **flavor.**

9 [(a)(A)] **(d)(A)** “Inhalant delivery system” means:

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

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

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

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

19 (ii) Tobacco products.

20 **(e) “Nicotine” means any form of the chemical nicotine, regardless of whether the**
21 **chemical is naturally or synthetically derived, including any salt, complex, alkaloid or analog.**

22 [(b)] **(f)** “Tobacco products” means:

23 **(A) Any product that contains, is made from or is derived from tobacco or nicotine, such**
24 **as** bidis, cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed and other
25 smoking tobacco, snuff, snuff flour, cavendish, plug and twist tobacco, fine-cut and other chewing
26 tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of tobacco and other forms of to-
27 bacco **or nicotine**, prepared in a manner that makes the tobacco **or nicotine** suitable for **human**
28 **consumption** [*chewing or smoking in a pipe or otherwise, or for both chewing and smoking*];

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

30 (C) A device that:

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

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

35 (2) It is unlawful:

36 (a) To violate ORS 167.755.

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

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

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

1 (e) To distribute, sell or [*allow to be sold*] **offer for sale** an inhalant delivery system if the
2 inhalant delivery system is not packaged in child-resistant safety packaging, as required by the au-
3 thority by rule.

4 (f) To distribute, sell or [*allow to be sold*] **offer for sale** an inhalant delivery system if the
5 inhalant delivery system is packaged in a manner that is attractive to minors, as determined by the
6 authority by rule.

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

9 **(h) To distribute, sell, attempt to sell or offer for sale a flavored inhalant delivery system**
10 **product or flavored tobacco product in this state, except as provided in ORS 431A.194.**

11 **(i) To distribute, offer or otherwise provide, without compensation, any tobacco product**
12 **or inhalant delivery system.**

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

15
16 NOTICE

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

21
22 (4) Rules adopted under subsection (2)(d), (e) and (f) of this section must be consistent with any
23 regulation adopted by the United States Food and Drug Administration related to labeling or pack-
24 aging requirements for inhalant delivery systems.

25 **(5) This section does not preempt a local government, as defined in ORS 174.116, from**
26 **enacting an ordinance, rule or resolution, or from taking other legislative action, that im-**
27 **poses requirements or prohibitions on the sale of inhalant delivery system products or to-**
28 **bacco products that are more stringent than the requirements or prohibitions set forth in**
29 **this section.**

30 **(6) The authority may adopt rules necessary to administer this section, ORS 431A.178 and**
31 **431A.183.**

32 **SECTION 2.** ORS 167.750 is amended to read:

33 167.750. For purposes of ORS 167.755 [*and 431A.175*], “allows to be sold” includes the negligent
34 omission of an act by a manager or other person who supervises the retail sale of tobacco products
35 or inhalant delivery systems, the commission of which would have prevented the distribution or sale
36 of the tobacco products or inhalant delivery system.

37 **SECTION 3.** ORS 180.441 is amended to read:

38 180.441. (1)(a) A person engaged in the business of selling cigarettes, inhalant delivery systems
39 or smokeless tobacco products for profit may not ship or transport, or cause to be shipped or
40 transported, cigarettes, inhalant delivery systems or smokeless tobacco products ordered or pur-
41 chased by mail or telephone or through a computer or other electronic network to any person in this
42 state other than a distributor or retailer.

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

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

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

8 **SECTION 4.** ORS 431A.190 is amended to read:

9 431A.190. As used in ORS 431A.190 to 431A.216:

10 (1) **“Flavored inhalant delivery system product” has the meaning given that term in ORS**
11 **431A.175.**

12 (2) **“Flavored tobacco product” has the meaning given that term in ORS 431A.175.**

13 [(1)] (3) **“Governing body of a local public health authority” has the meaning given that term**
14 **in ORS 431.003.**

15 [(2)] (4) **“Inhalant delivery system” has the meaning given that term in ORS 431A.175.**

16 [(3)] (5) **“Local public health authority” has the meaning given that term in ORS 431.003.**

17 [(4)] (6) **“Premises” means the real property on which a business that makes retail sales of to-**
18 **bacco products or inhalant delivery systems is located.**

19 [(5)] (7) **“Tobacco products” has the meaning given that term in ORS 431A.175.**

20 **SECTION 5.** ORS 431A.194 is amended to read:

21 431A.194. (1) A person may not make a retail sale of a tobacco product or an inhalant delivery
22 system at or from a premises located in this state unless the person sells the tobacco product or
23 inhalant delivery system at or from a premises licensed or otherwise authorized under ORS 431A.198
24 or 431A.220.

25 (2) **Notwithstanding subsection (1) of this section, a person may not make a retail sale**
26 **of a flavored tobacco product or a flavored inhalant delivery system product at or from a**
27 **premises located in this state unless the person sells the flavored tobacco product or flavored**
28 **inhalant delivery system product at or from a premises that is:**

29 (a) **Licensed or otherwise authorized under ORS 431A.198 or 431A.220; and**

30 (b) **Established as a store by the Oregon Liquor and Cannabis Commission under ORS**
31 **471.750.**

32 **SECTION 6.** A local government, as defined in ORS 174.116, that, on or before the oper-
33 **ative date specified in section 7 of this 2025 Act, enforces an ordinance, rule or resolution,**
34 **or has taken other legislative action, that imposes requirements or prohibitions on the sale**
35 **of inhalant delivery system products or tobacco products that are more stringent than the**
36 **requirements or prohibitions set forth in ORS 431A.175, as amended by section 1 of this 2025**
37 **Act, may continue to enforce the ordinance, rule, resolution or other legislative action after**
38 **the operative date specified in section 7 of this 2025 Act.**

39 **SECTION 7.** (1) **The amendments to ORS 431A.175 by section 1 of this 2025 Act become**
40 **operative on July 1, 2026.**

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

1 **SECTION 8. This 2025 Act being necessary for the immediate preservation of the public**
2 **peace, health and safety, an emergency is declared to exist, and this 2025 Act takes effect**
3 **on its passage.**

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