

Requested by Senator REYNOLDS

**PROPOSED AMENDMENTS TO
A-ENGROSSED SENATE BILL 702**

1 On page 1 of the printed A-engrossed bill, delete lines 5 through 19 and
2 delete pages 2 through 5 and insert:

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

4 **“431A.175. (1) As used in this section and ORS 431A.183:**

5 **“(a)(A) ‘Characterizing flavor’ means:**

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

13 **“(ii) A product is presumed to have a characterizing flavor if the**
14 **manufacturer, importer, distributor, wholesaler or retailer of the**
15 **product, or a third party authorized by the manufacturer, importer,**
16 **distributor, wholesaler or retailer of the product, makes an express**
17 **or implied public statement that describes the product as producing a**
18 **taste, flavor, aroma, smell or sensation not attributable exclusively to**
19 **tobacco, including but not limited to menthol, mint, wintergreen,**
20 **chocolate, cocoa, vanilla, honey or molasses or any fruit, candy, des-**
21 **sert, alcoholic beverage, herb, spice, chill, ice, fresh, arctic or frost**

1 **or a minty or cooling effect.**

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

4 **“(b) ‘Flavored inhalant delivery system product’ means an inhalant**
5 **delivery system product that imparts a characterizing flavor.**

6 **“(c) ‘Flavored tobacco product’ means a tobacco product that im-**
7 **parts a characterizing flavor.**

8 **“[(a)(A)] (d)(A) ‘Inhalant delivery system’ means:**

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

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

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

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

21 **“(ii) Tobacco products.**

22 **“(e) ‘Nicotine’ means any form of the chemical nicotine, regardless**
23 **of whether the chemical is naturally or synthetically derived, includ-**
24 **ing any salt, complex, alkaloid or analog.**

25 **“[(b)] (f) ‘Tobacco products’ means:**

26 **“(A) Any product that contains, is made from or is derived from**
27 **tobacco or nicotine, such as** bidis, cigars, cheroots, stogies, periques,
28 granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco,
29 snuff, snuff flour, cavendish, plug and twist tobacco, fine-cut and other
30 chewing tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of

1 tobacco and other forms of tobacco **or nicotine**, prepared in a manner that
2 makes the tobacco **or nicotine** suitable for **human consumption** [*chewing*
3 *or smoking in a pipe or otherwise, or for both chewing and smoking*];

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

5 “(C) A device that:

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

8 “(ii) Has not been approved by the United States Food and Drug Admin-
9 istration for sale as a tobacco cessation product or for any other therapeutic
10 purpose, if the product is marketed and sold solely for the approved purpose.

11 “(2) It is unlawful:

12 “(a) To violate ORS 167.755.

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

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

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

24 “(e) To distribute, sell or [*allow to be sold*] **offer for sale** an inhalant
25 delivery system if the inhalant delivery system is not packaged in child-
26 resistant safety packaging, as required by the authority by rule.

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

30 “(g) To distribute, sell or [*allow to be sold*] **offer for sale** cigarettes in

1 any form other than a sealed package that contains at least 20 cigarettes.

2 **“(h) To distribute, offer or otherwise provide, without compen-**
3 **sation, any tobacco product or inhalant delivery system.**

4 “(3) The notice required by subsection (2)(b) of this section must be sub-
5 stantially as follows:

6 “ _____

7 NOTICE

8 The sale of tobacco in any form to persons under 21 years of age is pro-
9 hibited by law. Any person who sells, or allows to be sold, tobacco to a
10 person under 21 years of age is in violation of Oregon law.

11 “ _____

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

16 **“(5) This section does not preempt a local government, as defined**
17 **in ORS 174.116, from enacting an ordinance, rule or resolution, or from**
18 **taking other legislative action, that imposes requirements or prohibi-**
19 **tions on the sale of inhalant delivery systems or tobacco products that**
20 **are more stringent than the requirements or prohibitions set forth in**
21 **this section.**

22 **“(6) The authority may adopt rules necessary to administer this**
23 **section and ORS 431A.178 and 431A.183.**

24 **“SECTION 1a.** ORS 431A.175, as amended by section 1 of this 2025 Act,
25 is amended to read:

26 “431A.175. (1) As used in this section and ORS 431A.183:

27 “(a)(A) ‘Characterizing flavor’ means:

28 “(i) An artificial or natural taste, flavor, aroma, smell or sensation not
29 attributable exclusively to tobacco that an ordinary consumer would distin-
30 guish prior to or during consumption, including but not limited to a taste,

1 flavor, aroma, smell or sensation related to menthol, mint, wintergreen,
2 chocolate, cocoa, vanilla, honey or molasses or any fruit, candy, dessert, al-
3 coholic beverage, herb, spice, chill, ice, fresh, arctic or frost or a minty or
4 cooling effect.

5 “(ii) A product is presumed to have a characterizing flavor if the man-
6 ufacturer, importer, distributor, wholesaler or retailer of the product, or a
7 third party authorized by the manufacturer, importer, distributor, wholesaler
8 or retailer of the product, makes an express or implied public statement that
9 describes the product as producing a taste, flavor, aroma, smell or sensation
10 not attributable exclusively to tobacco, including but not limited to menthol,
11 mint, wintergreen, chocolate, cocoa, vanilla, honey or molasses or any fruit,
12 candy, dessert, alcoholic beverage, herb, spice, chill, ice, fresh, arctic or frost
13 or a minty or cooling effect.

14 “(B) ‘Characterizing flavor’ does not include the artificial or natural
15 taste, flavor, aroma, smell or sensation of cannabis.

16 “(b) ‘Flavored inhalant delivery system product’ means an inhalant de-
17 livery system product that imparts a characterizing flavor.

18 “(c) ‘Flavored tobacco product’ means a tobacco product that imparts a
19 characterizing flavor.

20 “(d)(A) ‘Inhalant delivery system’ means:

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

23 “(ii) A component of a device described in this subparagraph or a sub-
24 stance in any form sold for the purpose of being vaporized or aerosolized by
25 a device described in this subparagraph, whether or not the component or
26 substance is sold separately.

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

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

1 proved purpose; and

2 “(ii) Tobacco products.

3 “(e) ‘Nicotine’ means any form of the chemical nicotine, regardless of
4 whether the chemical is naturally or synthetically derived, including any
5 salt, complex, alkaloid or analog.

6 “(f) ‘Tobacco products’ means:

7 “(A) Any product that contains, is made from or is derived from tobacco
8 or nicotine, such as bidis, cigars, cheroots, stogies, periques, granulated, plug
9 cut, crimp cut, ready rubbed and other smoking tobacco, snuff, snuff flour,
10 cavendish, plug and twist tobacco, fine-cut and other chewing tobaccos,
11 shorts, refuse scraps, clippings, cuttings and sweepings of tobacco and other
12 forms of tobacco or nicotine, prepared in a manner that makes the tobacco
13 or nicotine suitable for human consumption;

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

15 “(C) A device that:

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

18 “(ii) Has not been approved by the United States Food and Drug Admin-
19 istration for sale as a tobacco cessation product or for any other therapeutic
20 purpose, if the product is marketed and sold solely for the approved purpose.

21 “(2) It is unlawful:

22 “(a) To violate ORS 167.755.

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

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

1 “(d) To distribute, sell or offer for sale an inhalant delivery system if the
2 inhalant delivery system is not labeled in accordance with rules adopted by
3 the authority.

4 “(e) To distribute, sell or offer for sale an inhalant delivery system if the
5 inhalant delivery system is not packaged in child-resistant safety packaging,
6 as required by the authority by rule.

7 “(f) To distribute, sell or offer for sale an inhalant delivery system if the
8 inhalant delivery system is packaged in a manner that is attractive to mi-
9 nors, as determined by the authority by rule.

10 “(g) To distribute, sell or offer for sale cigarettes in any form other than
11 a sealed package that contains at least 20 cigarettes.

12 “(h) To distribute, offer or otherwise provide, without compensation, any
13 tobacco product or inhalant delivery system.

14 “**(i) To distribute, sell, attempt to sell or offer for sale a flavored**
15 **inhalant delivery system product or flavored tobacco product in this**
16 **state, except as provided in ORS 431A.194.**

17 “(3) The notice required by subsection (2)(b) of this section must be sub-
18 stantially as follows:

19 “ _____

20 NOTICE

21 The sale of tobacco in any form to persons under 21 years of age is pro-
22 hibited by law. Any person who sells, or allows to be sold, tobacco to a
23 person under 21 years of age is in violation of Oregon law.

24 “ _____

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

29 “(5) This section does not preempt a local government, as defined in ORS
30 174.116, from enacting an ordinance, rule or resolution, or from taking other

1 legislative action, that imposes requirements or prohibitions on the sale of
2 inhalant delivery systems or tobacco products that are more stringent than
3 the requirements or prohibitions set forth in this section.

4 “(6) The authority may adopt rules necessary to administer this section
5 and ORS 431A.178 and 431A.183.

6 **“SECTION 2.** ORS 167.750 is amended to read:

7 “167.750. For purposes of ORS 167.755 [*and 431A.175*], ‘allows to be sold’
8 includes the negligent omission of an act by a manager or other person who
9 supervises the retail sale of tobacco products or inhalant delivery systems,
10 the commission of which would have prevented the distribution or sale of the
11 tobacco products or inhalant delivery system.

12 **“SECTION 3.** ORS 180.441 is amended to read:

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

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

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

29 “(3) A person may not knowingly provide substantial assistance to a per-
30 son that is violating subsection (1) or (2) of this section.

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

2 “431A.190. As used in ORS 431A.190 to 431A.216:

3 **“(1) ‘Flavored inhalant delivery system product’ has the meaning**
4 **given that term in ORS 431A.175.**

5 **“(2) ‘Flavored tobacco product’ has the meaning given that term in**
6 **ORS 431A.175.**

7 “[1] **(3)** ‘Governing body of a local public health authority’ has the
8 meaning given that term in ORS 431.003.

9 “[2] **(4)** ‘Inhalant delivery system’ has the meaning given that term in
10 ORS 431A.175.

11 “[3] **(5)** ‘Local public health authority’ has the meaning given that term
12 in ORS 431.003.

13 “[4] **(6)** ‘Premises’ means the real property on which a business that
14 makes retail sales of tobacco products or inhalant delivery systems is lo-
15 cated.

16 “[5] **(7)** ‘Tobacco products’ has the meaning given that term in ORS
17 431A.175.

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

19 “431A.194. **(1)** A person may not make a retail sale of a tobacco product
20 or an inhalant delivery system at or from a premises located in this state
21 unless the person sells the tobacco product or inhalant delivery system at
22 or from a premises licensed or otherwise authorized under ORS 431A.198 or
23 431A.220.

24 **“(2) Notwithstanding subsection (1) of this section, a person may**
25 **not make a retail sale of a flavored tobacco product or a flavored**
26 **inhalant delivery system product at or from a premises located in this**
27 **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**
30 **431A.220; and**

1 “(b) Established as a store by the Oregon Liquor and Cannabis
2 Commission under ORS 471.750.

3 “SECTION 6. A local government, as defined in ORS 174.116, that,
4 on or before the effective date of this 2025 Act, enforces an ordinance,
5 rule or resolution, or has taken other legislative action, that imposes
6 requirements or prohibitions on the sale of inhalant delivery systems
7 or tobacco products that are more stringent than the requirements or
8 prohibitions set forth in ORS 431A.175, as amended by sections 1 and
9 1a of this 2025 Act, may continue to enforce the ordinance, rule, re-
10 solution or other legislative action after the effective date of this 2025
11 Act.

12 “SECTION 7. (1) The amendments to ORS 431A.175, 431A.190 and
13 431A.194 by sections 1a, 4 and 5 of this 2025 Act become operative on
14 July 1, 2026.

15 “(2) The Oregon Health Authority may take any action before the
16 operative date specified in subsection (1) of this section that is neces-
17 sary to enable the authority to exercise, on and after the operative
18 date specified in subsection (1) of this section, all of the duties, func-
19 tions and powers conferred on the authority by the amendments to
20 ORS 431A.175 by section 1a of this 2025 Act.

21 “SECTION 8. This 2025 Act being necessary for the immediate
22 preservation of the public peace, health and safety, an emergency is
23 declared to exist, and this 2025 Act takes effect on its passage.”.

24 _____