

Requested by Representative RESCHKE

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 2528**

1 On page 1 of the printed A-engrossed bill, line 2, after “180.441,” delete
2 the rest of the line and lines 3 and 4 and insert “431A.175, 431A.178 and
3 431A.183; repealing ORS 167.750 and 167.755; and prescribing an effective
4 date.”.

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

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

7 “431A.175. (1) As used in this section and ORS 431A.183:

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

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

1 “(b) ‘Tobacco products’ means:

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

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

14 “(C) A device that:

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

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

20 “(2) It is unlawful:

21 “[*(a) To violate ORS 167.755.*]

22 “(a) **To distribute, sell or offer for sale in this state tobacco pro-**
23 **ducts or inhalant delivery systems to a person under 21 years of age.**
24 **A business entity or person who is an owner of a business entity that**
25 **is engaged in the retail sale of tobacco products or inhalant delivery**
26 **systems violates this paragraph if the owner or an employee, agent or**
27 **other representative of the business entity distributes, sells or offers**
28 **for sale tobacco products or inhalant delivery systems to a person**
29 **under 21 years of age.**

30 “(b) To fail as a retailer of tobacco products to post a notice substantially

1 similar to the notice described in subsection (3) of this section in a location
2 that is clearly visible to the seller and the purchaser of the tobacco products.

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

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

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

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

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

21 “(h) **To distribute, offer or otherwise provide, without compen-**
22 **sation, tobacco products or inhalant delivery systems.**

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

25 “ _____
26 NOTICE

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

30 “ _____

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

3 “[(4)] (5) Rules adopted under subsection (2)(d), (e) and (f) of this section
4 must be consistent with any regulation adopted by the United States Food
5 and Drug Administration related to labeling or packaging requirements for
6 inhalant delivery systems.

7 “**SECTION 1a.** ORS 431A.178 is amended to read:

8 “431A.178. (1) The Oregon Health Authority may impose a civil penalty
9 against a person that engages in the wholesale or retail sale of tobacco
10 products or inhalant delivery systems, as those terms are defined in ORS
11 431A.175, if the person violates:

12 “(a) ORS 431A.175 or a rule adopted under ORS 431A.175; or

13 “(b) A state law or rule or federal law or regulation that governs the
14 wholesale or retail sale of tobacco products or inhalant delivery systems for
15 purposes related to public health and safety.

16 “[(2) *A civil penalty imposed under this section may not be more than*
17 *\$5,000 per violation.*]

18 “(2) **For each violation described in subsection (1) of this section, a**
19 **civil penalty may be imposed as follows:**

20 “(a) **\$1,000 for the first violation of a specific provision.**

21 “(b) **\$2,000 for the second violation of a specific provision.**

22 “(c) **\$3,500 for the third violation of a specific provision.**

23 “(d) **\$5,000 for the fourth or any subsequent violation of a specific**
24 **provision.**

25 “(3) Amounts collected under this section shall be deposited in the Gen-
26 eral Fund.

27 “(4) If a civil penalty is imposed under this section, a civil penalty may
28 not be imposed for the commission of the same act under ORS 431A.216 or
29 431A.218.

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

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

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

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

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

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

20 “431A.183. (1)(a) The Oregon Health Authority may enter into an agree-
21 ment with federal agencies to assist the authority in monitoring and en-
22 forcing federal laws and regulations related to tobacco products or inhalant
23 delivery systems.

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

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

30 “(2)(a) The authority may enter into an agreement with federal, state and

1 local government agencies, including federal, state and local law enforcement
2 agencies, to assist the authority in carrying out the authority's duties under
3 ORS 431A.175 and to conduct random, unannounced inspections of whole-
4 salers and retailers of tobacco products or inhalant delivery systems to en-
5 sure compliance with the laws of this state designed to discourage the use
6 of tobacco products and inhalant delivery systems by persons under 21 years
7 of age, including ORS [167.755,] 167.760, 167.765, 167.770, 167.775, 167.780 and
8 431A.175.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 **“SECTION 5. (1) The amendments to ORS 431A.175 and 431A.178 by**
22 **sections 1 and 1a of this 2025 Act become operative on October 1, 2025.**

23 **“(2) The Oregon Health Authority may take any action before the**
24 **operative date specified in subsection (1) of this section that is neces-**
25 **sary to enable the authority to exercise, on and after the operative**
26 **date specified in subsection (1) of this section, all of the duties, func-**
27 **tions and powers conferred on the authority by the amendments to**
28 **ORS 431A.175 and 431A.178 by sections 1 and 1a of this 2025 Act.**

29 **“SECTION 6. This 2025 Act takes effect on the 91st day after the**
30 **date on which the 2025 regular session of the Eighty-third Legislative**

1 **Assembly adjourns sine die.”.**

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