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TO: The Honorable Nathan Sosa, Chair
House Committee on Commerce and Consumer Protection

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SUBJECT: HB 2528 - Closing Tobacco Prevention Loopholes

Chair Sosa and members of the committee, I am Dr. Dean Sidelinger, Health Officer and State Epidemiologist of the Oregon Health Authority.

I am writing to express OHA's support for HB 2528 with the -1 amendment. This bill fixes state tobacco laws to comprehensively regulate tobacco product sales and decrease youth access to addictive nicotine products.

In Oregon, tobacco use takes over 8,000 lives every year and costs \$5.7 billion in medical expenses and lost productivity. Consistent, comprehensive and equitable regulation of tobacco and nicotine products can reduce the number of Oregon children and young adults that become addicted to tobacco, help current tobacco users quit, reduce health care costs and deaths.

Current loopholes in the Oregon tobacco retail laws put youth at risk of addiction and lifelong health problems. Tobacco companies constantly innovate and create new products to get around state public health laws. For example, oral nicotine products, such as nicotine pouches, gum, tablets, and gummies, aren't currently covered by Oregon's tobacco retail laws yet are heavily marketed, including in youth-friendly flavors like mint and exotic mango.

All commercial tobacco products, regardless of the source of nicotine, pose a significant risk to public health and create an obstacle to health equity due to the addictive properties of nicotine, and increased risk for disease, cancer and death. Products that contain tobacco derived from tobacco leaf or synthetic lab-made nicotine are not designed to help people quit smoking. The U.S. Food and Drug Administration (FDA) considers oral nicotine products to be commercial tobacco products and nicotine pouches are the fastest-growing product on the U.S. tobacco market. Many states, however, including Oregon, do not have comprehensive state laws to sufficiently regulate oral nicotine products. Consequently, the Oregon Tobacco Retail License Program lacks the authority to enforce critical, evidence-based retail regulations like the minimum legal sales age on these nicotine products. This means that state inspectors are unable to respond to complaints by parents and community members about these products being sold to people under 21 years old. Oral nicotine products are also untaxed since they are not defined as tobacco products in Oregon. so These two regulatory gaps make oral nicotine products cheap and easy to get – for everyone, especially youth. HB 2528 closes these regulatory loopholes and gives Oregon the ability to regulate all nicotine products, protecting youth from a growing market of unregulated, deadly nicotine products.

In 2021, the Oregon Legislature created the Oregon Tobacco Retail License Program to hold retailers accountable to tobacco retail sales laws. Since program inspections began in 2022, the state has seen significant declines in sales to underage people – from 26% of retailers selling illegally in 2022 to only 14% of retailers in 2024. In its first three years of operation, the Tobacco Retail License Program has also identified fixes to tobacco retail regulations that would reduce confusion around tobacco retail laws. HB 2528 includes these recommendations.

First, Oregon prohibits the online sales of tobacco products and e-cigarettes. However, existing statute only prohibits delivery services that rely on independent contractors such as DoorDash, Instacart, or Uber Eats to fulfill deliveries. There are Oregon businesses that sell tobacco products online and offer delivery provided by their retail employees, not the independent contractors prohibited by statute. HB 2528 would close this face-to-face delivery loophole. Tightening remote sales regulations for tobacco products and Inhalant Delivery Systems (IDS) will decrease access to these addictive products without proper age verification.

Second, Oregon tobacco prevention partners have observed tobacco products and inhalant delivery systems (IDS) in giveaway prize machines accessible to youth. This violates federal law, but Oregon lacks a comparable state law. HB 2528 creates a comparable state law to prohibit tobacco products and IDS from being prizes that youth can win without age

verification.

Third, HB 2528 reduces confusion for retailers and retail employees on penalties for tobacco retail sales violations. Oregon has two sets of tobacco control laws in place – one for businesses, and one for individuals. Having two sets of laws makes it hard for business owners, staff, other enforcement programs, and the public to understand the consequences of tobacco sales violations. HB 2528 clarifies OHA’s civil authority to hold retailers responsible for tobacco violations and removes individual criminal penalties. Closing this regulatory loophole is critical to comprehensively enforcing tobacco restrictions and will reduce concern from retailers they are being charged with a criminal offense. The Oregon Tobacco Retail License program will provide the infrastructure for outreach, education and enforcement for retailers to ensure they are aware of and comply with the changes proposed in HB 2528.

Fourth, OHA works closely with the Department of Revenue to implement the Tobacco Retail License Program. With the -1 amendment, OHA’s rule-making authority will parallel Department of Revenue’s authority for tobacco retail sales laws assigned to each agency. The -1 also extends the implementation date for taxation updates to support smooth DOR implementation of tax changes.

Together, these changes will address the substantial increase in youth access to nicotine products and improve health equity for all people in Oregon.

In summary, OHA supports HB 2528 with the -1 amendment because it takes important steps toward reducing youth nicotine addiction and reducing tobacco-driven health inequities. The bill will give Oregon the ability to regulate all nicotine products, protecting youth from a growing market of unregulated tobacco products.

Thank you for the opportunity to provide testimony today.