



JOINT COUNCIL OF TEAMSTERS NO. 37

Affiliated with the International Brotherhood of Teamsters

May 20, 2025

To: Senate Committee on Finance and Revenue

Attention: Chair Senator Meek, Vice-Chair Senator McLane and members of the committee

Re: Senate bill 702 A

Dear Chair, Meek and committee.

This letter is in opposition to Senate bill 702 A.

My name is Steve Konopa, and I am the principal officer of Teamsters Local Union No. 305 in Northeast Portland. I am also the statewide Legislative Director for the Teamsters Joint Council 37. I have been a life-long advocate for working people in Oregon, specifically union members that work under a collective-bargaining agreement. The Teamsters represent thousands of workers around this state that this bill (if passed), would impact greatly in a negative way. I am in opposition to SB 702 A and encourage you to seriously consider my testimony.

Senate Bill 702 A builds a monopoly on certain products that now are distributed to roughly 3800 businesses and that means many good paying truck driving and delivery jobs will be eliminated. Giving access to only about 228 facilities reduces the workforce and discriminates against good employers trying to survive in a sluggish economy. Regardless of the kind of products being distributed, this type of change of operations is not solving any kind of issue that may need to be addressed. There is a safe and secure method of regulation already, to ensure that minors do not have access to purchase these items. The concept of limiting the place of purchase and giving it to one single entity is somewhat of a conflict in a free enterprise system to say the least, not to mention it looks bad for the state because it implies that the state legislature is showing favoritism and personal gain when the one entity is state run OLCC stores.

The goal here in Oregon, for us Teamsters, is simple. Protect good paying jobs that contribute to the tax base for all Oregonians and to make it fair to do business in Oregon.



Mark Davison - President

1872 N.E. 162nd Avenue, Portland, Oregon 97230

Phone 503-251-2337 Fax 503-251-2303

Thank you for your time and consideration of this important matter before you.
Please vote against this bill.

Sincerely,

A handwritten signature in black ink, appearing to be 'SK' or 'Steve Konopa', written in a cursive style.

Steve Konopa
Legislative Director
Teamsters Joint Council 37

If you have any specific questions, please do not hesitate to call me at 503-251-2305 or email steve.konopa@jcteamsters37.com

Oregon Risks Losing Tax Revenue from the Proposed Ban on Flavored Tobacco Products

Some Oregon policymakers are proposing a ban on the sale of any flavored tobacco products – even to adults 21 and older. We share Oregon’s goal that kids should not smoke or use any tobacco products, but prohibition is not the answer.

The proposed flavored ban could negatively impact Oregon’s economy – adding to the burden of hardworking Oregonians, who are already facing major challenges today. This prohibition-based policy makes no sense. It will:

- Put significant tax revenue at risk without reducing consumption
- Risk funding for important state programs funded by tobacco taxes
- Further increase the tax burden on Oregonians

In fiscal year 2024, Oregon collected \$377.8 million in tobacco taxes.¹

Banning the sale of flavored tobacco products, including menthol cigarettes, would put \$102.5 million in revenues at risk. Tobacco tax revenues are an important source of revenue for Oregon programs.

If the proposed ban on flavored tobacco products is

implemented, and the state loses revenue, they would have to fill the gap by either raising taxes elsewhere or cutting spending.

There are better options that don’t hurt Oregon taxpayers – like education, cessation support, and underage prevention. That’s what policymakers should focus on – not prohibition.

FY2024 State Tax Revenues (in millions)

	Cigarettes	OTP	TOTAL
Total Excise revenues	\$296.4	\$81.5	\$377.8

FY2024 State Tax Revenues Put at Risk (in millions)

	Cigarettes	OTP	TOTAL
Total Excise revenues	\$51.5	\$51.0	\$102.5

¹ Bill Orzechowski & Rob Walker, *The Tax Burden on Tobacco*, vol. 59 (February 2025).

Oregon Should Support Harm Reduction instead of Prohibition

Some Oregon policymakers are proposing a ban on the sale of any flavored tobacco products – even to adults 21 and older. We share Oregon's goal that kids should not use tobacco products, but prohibition is not the answer. Instead, Oregon should support harm reduction – an approach that focuses on preventing underage use and providing adult smokers the support, information, and choice to either quit or move to less harmful smoke-free alternatives.

In 2009, Congress passed the Tobacco Control Act (TCA) that gave the Federal Food and Drug Administration (FDA) comprehensive regulatory authority over tobacco products. Two of FDA's most important charges are to support underage prevention efforts and to promote harm reduction for tobacco products.

Underage Prevention Efforts

In 2019, when data indicated a spike in youth e-cigarette use, Congress and the FDA responded:

1. In December 2019, Congress enacted Tobacco 21 – a law that increased the federal age to purchase tobacco products to 21. Public health experts agree Tobacco 21 is a major step to addressing youth e-vapor use.¹
2. In December 2020, Congress passed a law that imposed strict limits on online e-vapor purchase and sale.
3. In March 2022, Congress passed a law giving FDA new powers to regulate synthetic nicotine (which was increasingly being used in e-cigarette products).

These actions taken by Congress are working. Since Congress passed Tobacco 21, tobacco use by youth has decreased from 31.6% to 12.6%.² Further:

- Youth smoking is at 1.2% and youth menthol cigarette use is down to 0.6%.³
- In 2023, the high school e-vapor use rate had fallen to 10%, down from a peak of 27.5% in 2019.⁴ In total, 2.5 million fewer youth used e-vapor products in 2023 compared to 2019.

Every state – including Oregon – also extensively regulates tobacco products. These laws require licensing, age-verification, payment of tax, and many other requirements essential to a well-regulated industry.

States can build on the effective federal regulatory framework to further reduce youth use of tobacco and nicotine products. They should implement a simple solution: requiring manufacturers of e-vapor products to register with the state and certify the products comply with federal regulation. States

¹ See, e.g.; National Academy of Sciences, Institute of Medicine, "Raising Minimum Age to Buy Cigarettes to at Least 21 Will Reduce Smoking Prevalence and Save Lives, Says IOM," 2021, <https://www.nationalacademies.org/news/2012/03/raising-minimum-age-to-buy-cigarettes-to-at-least-21-will-reduce-smoking-prevalence-and-save-lives-says-iom>; CDC, "Youth and Tobacco Use," https://www.cdc.gov/tobacco/data_statistics/fact_sheets/youth_data/tobacco_use/index.htm.

² Tobacco Product Use Among U.S. Middle and High School Students – National Youth Tobacco Survey, 2019-2023

³ Tobacco Product Use Among U.S. Middle and High School Students – National Youth Tobacco Survey, 2023

https://www.cdc.gov/mmwr/volumes/72/wr/mm7244a1.htm?s_cid=mm7244a1_w

⁴ CDC, E-cigarette Use Among Middle and High School Students – United States, 2023 <http://dx.doi.org/10.15585/mmwr.mm7140a3>; Tobacco Product Use and Associated Factors Among Middle and High School Students – United States, 2021

<http://dx.doi.org/10.15585/mmwr.ss7105a1> and 2019 <http://dx.doi.org/10.15585/mmwr.ss6812a1>. Note, the 2021 survey was conducted online with an overall lower participation rate than previous years that were primarily conducted on school campuses. Due to differences in data collections procedures, comparisons of the 2021 NYTS estimates to previous years should be interpreted with caution.

then publish the list of compliant products in a directory like the cigarette directories that exist in all 50 states. Eleven states have already enacted such laws.

Harm Reduction

Harm reduction is a public health strategy that improves health outcomes not by punishing or criminalizing behavior, but by providing adults with support, information, and better choices. The Department of Health and Human Services (HHS) has fully embraced harm reduction in its approach to substance use disorders.⁵

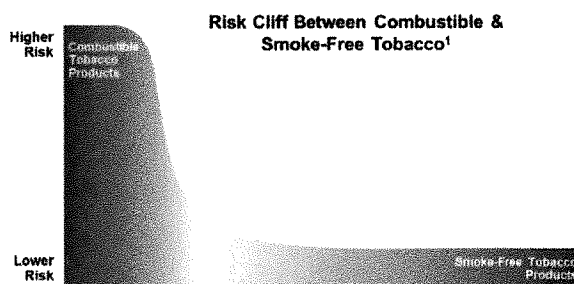
In the context of tobacco and nicotine products, harm reduction recognizes that:

- While nicotine is addictive, it's smoke from cigarettes that causes most tobacco-related disease.⁶ In fact, nicotine is the active ingredient in many smoking cessation products that are authorized by the FDA.
- Products that deliver nicotine without smoke offer major benefits for smokers unable or unwilling to quit – and an enormous public health opportunity for the U.S.⁷

In recent years, there has been growing consensus that harm reduction is the most effective and sustainable approach to tobacco regulation.⁸ A harm reduction approach relies on laws and regulations allowing legal, regulated sales of products to adults, preventing sales to youth, and supporting adults with education, cessation services, and smoke-free options.

FDA has granted authorization to a few smoke-free tobacco products to be sold in the U.S. on the grounds that they are “appropriate for the protection of public health.”⁹ A few of these tobacco products have menthol. FDA is currently reviewing more applications.

Flavored smoke-free products help move adult smokers away from combustible cigarettes. There is significant evidence that cigarette smokers looking to switch to non-combustible alternatives look for products with flavors.¹⁰ As evidence, smoke-free nicotine replacement therapies like gums are offered in a variety of flavors.¹¹



Source: Adapted from Nutt, et. al Estimating the Harms of Nicotine-Containing Products Using the MCDA Approach. *Eur. Addict Res* 2014; 20:218-225.

Instead of moving forward with a prohibitionist flavor ban that risks this great progress on underage prevention, Oregon should remain focused on harm reduction.

⁵ HHS SAMHSA website, “Harm Reduction,” at <https://www.samhsa.gov/find-help/harm-reduction>.

⁶ FDA Website, “Nicotine is Why Tobacco Products are Addictive,” as of 6/29/22, at <https://www.fda.gov/tobacco-products/health-effects-tobacco-use/nicotine-why-tobacco-products-are-addictive>.

⁷ Remarks of FDA Commissioner Scott Gottlieb, M.D., “Protecting American Families: Comprehensive Approach to Nicotine and Tobacco,” July 28, 2017, at <https://www.fda.gov/news-events/speeches-fda-officials/protecting-american-families-comprehensive-approach-nicotine-and-tobacco-06282017>.

⁸ See, e.g.; Letter to Margaret Chan, WHO Director, from 53 nicotine policy experts, May 26, 2014, <http://nicotinepolicy.net/documents/letters/MargaretChan.pdf>; UK Dept. of Health and Social Care press release, “E-cigarettes could be prescribed on the NHS in world first,” Oct. 29, 2021, <https://www.gov.uk/government/news/e-cigarettes-could-be-prescribed-on-the-nhs-in-world-first>; Peter Hajek et. al., “A Randomized Trial of E-Cigarettes versus Nicotine-Replacement Therapy,” *The New England Journal of Medicine*, Jan. 30, 2019, https://www.nejm.org/doi/full/10.1056/NEJMoa1808779?query=featured_home.

⁹ “Premarket Tobacco Product Marketing Granted Orders,” U.S. Food and Drug Administration, 6/10/22, <https://www.fda.gov/premarket-tobacco-product-marketing-granted-orders>.

¹⁰ Farsalinos, K.E., Romagna, G., Tsiapras, D., Kyrzopoulos, S., Spyrou, A., & Voudris, V., “Impact of Flavor Variability on Electronic Cigarette Use Experience: An Internet Survey,” *Int J Environ Res Public Health* 10(12): 7272-7283 (2013), <http://www.mdpi.com/1660-4601/10/12/7272>.

¹¹ See, e.g., Nicorette website, “Find your flavor,” <https://www.nicorette.com/products/nicorette-gum.html>.

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

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

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

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

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

(a)(A) "Characterizing flavor" means:

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

(ii) A product is presumed to have a characterizing flavor if the manufacturer, importer, distributor, wholesaler or retailer of the product, or a third party authorized by the manufacturer, importer, distributor, wholesaler or retailer of the product, makes an express or implied public statement that describes the product as producing a taste, flavor, aroma, smell or sensation not attributable exclusively to tobacco, including but not limited to 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.

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

(B) "Characterizing flavor" does not include the artificial or natural taste, flavor, aroma, smell or sensation of cannabis.

(b) "Flavored inhalant delivery system product" means an inhalant delivery system product that imparts a characterizing flavor.

(c) "Flavored tobacco product" means a tobacco product that imparts a characterizing flavor.

[(a)(A)] (d)(A) "Inhalant delivery system" means:

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

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

(B) "Inhalant delivery system" does not include:

(i) 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; and

(ii) Tobacco products.

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

[(b)] (f) "Tobacco products" means:

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

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

(C) A device that:

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

(ii) Has not 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.

(2) It is unlawful:

(a) To violate ORS 167.755.

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

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

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

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

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

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

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

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

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

NOTICE

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

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

(5) This section does not preempt a local government, as defined in ORS 174.116, from enacting an ordinance, rule or resolution, or from taking other legislative action, that imposes requirements or prohibitions on the sale of inhalant delivery system products or tobacco products that are more stringent than the requirements or prohibitions set forth in this section.

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

SECTION 2. ORS 167.750 is amended to read:

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

SECTION 3. ORS 180.441 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

[(4)] (6) "Premises" means the real property on which a business that makes retail sales of tobacco products or inhalant delivery systems is located.

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

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

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

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

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

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

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

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

(2) The Oregon Health Authority may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the authority to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the authority by the amendments to ORS 431A.175 by section 1 of 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.
4
