

SB 1571 -1, -2, -3 STAFF MEASURE SUMMARY

Senate Committee On Judiciary

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Meeting Dates: 2/11, 2/16

WHAT THE MEASURE DOES:

The measure adds oral nicotine products and products that contain nicotine intended for human consumption to the definition of tobacco products, prohibited from sale to persons under 21 years of age and subject to packaging requirements. It removes underage sale violations from the criminal code, adds it to public health statutes, and authorizes the Oregon Health Authority to adopt rules. It also adds tobacco products to online retail sale prohibitions for cigarettes, inhalant delivery systems and smokeless tobacco products. Takes effect on the 91st days following adjournment sine die.

ISSUES DISCUSSED:

- Provisions of the measure

EFFECT OF AMENDMENT:

-1 The amendment removes from the measure rulemaking authority by the Oregon Health Authority, and it removes provisions prohibiting the offer of free tobacco products or inhalant delivery systems. It adds an exclusion for cigars from restrictions on selling tobacco products online.

-2 The amendment adds an exclusion for food that contains no more than trace amounts of nicotine, prohibits distribution and offer of tobacco products to persons under the age of 21, and removes changes to online sale laws.

FISCAL: Has minimal fiscal impact

REVENUE: Has no revenue impact

-3 The amendment replaces the measure and adds oral nicotine products and products that contain nicotine intended for human consumption to the definition of tobacco products. It excludes foods that contains no more than trace amounts of nicotine.

FISCAL: May have fiscal impact but no statement yet issued

REVENUE: May have revenue impact, but no statement yet issued

BACKGROUND:

The federal government regulates nicotine products through the Food, Drug, and Cosmetics Act, defining ‘tobacco product’ to include “any tobacco product containing nicotine that is not made or derived from tobacco.” [21 U.S.C. Sec. 378a\(b\)](#); [Public Law 117-103, Sec. 111](#) (2022); [21 C.F.R. Sec. 1100.1](#), [1100.2](#). Regulations refer to these as “non-tobacco nicotine” (NTN). Because federal law treats NTN the same as tobacco-derived tobacco products, sale of NTN to persons under 21 years of age is prohibited. [21 U.S.C. § 387f\(d\)\(5\)](#). A [search](#) of civil monetary penalty complaints for unlawful sale of oral nicotine products to minors yielded 3,003 results for brick and mortar stores in the country, including 170 in Oregon, and 12 results for online retailers. Oregon law currently authorizes the Oregon Health Authority to assist in monitoring and enforcing federal laws and regulations related to tobacco products and inhalant delivery systems. [ORS 431A.183](#).