

# D R A F T

## SUMMARY

Digest: The Act changes some laws that relate to products with tobacco or nicotine derived from any source. (Flesch Readability Score: 60.1).

Adds “nicotine derived from any source” to the definitions of “inhalant delivery system” and “tobacco products.” Repeals existing criminal prohibition on the sale of inhalant delivery systems or tobacco products to a person under 21 years of age and replaces the repealed law with a civil prohibition enforced by the Oregon Health Authority. Authorizes imposition of civil penalties for violations.

Establishes a civil prohibition on providing, without compensation, inhalant delivery systems or tobacco products.

Authorizes the authority to adopt rules to regulate the sale of inhalant delivery systems or tobacco products for the purpose of protecting public health and safety.

Requires any sale of cigarettes, inhalant delivery systems or smokeless tobacco products to occur at licensed premises.

Expands definition of “tobacco products” for taxation purposes to include nicotine pouches, nicotine lozenges and other products containing nicotine derived from any source.

Takes effect on the 91st day following adjournment sine die.

## A BILL FOR AN ACT

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Relating to public health; creating new provisions; amending ORS 180.441, 323.500, 431A.175 and 431A.183; repealing ORS 167.750 and 167.755; prescribing an effective date; and providing for revenue raising that requires approval by a three-fifths majority.

**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:

1 (a)(A) “Inhalant delivery system” means:

2 (i) A device that can be used to deliver [*nicotine or*] cannabinoids **or**  
3 **nicotine derived from any source** in the form of a vapor or aerosol to a  
4 person inhaling from the device; or

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

9 (B) “Inhalant delivery system” does not include:

10 (i) Any product that has been approved by the United States Food and  
11 Drug Administration for sale as a tobacco cessation product or for any other  
12 therapeutic purpose, if the product is marketed and sold solely for the ap-  
13 proved purpose; and

14 (ii) Tobacco products.

15 (b) “Tobacco products” means:

16 (A) **Any product that contains, is made from or is derived from to-**  
17 **bacco or nicotine derived from any source that is intended or likely**  
18 **to be used for human consumption by any means, including but not**  
19 **limited to** [*Bidis*] **bidis**, cigars, cheroots, stogies, periques, granulated, plug  
20 cut, crimp cut, ready rubbed and other smoking tobacco, snuff, snuff flour,  
21 cavendish, plug and twist tobacco, fine-cut and other chewing tobaccos,  
22 shorts, refuse scraps, clippings, cuttings and sweepings of tobacco and other  
23 forms of tobacco[,] **and oral nicotine pouches, nicotine lozenges and**  
24 **other products containing nicotine derived from any source** [*prepared*  
25 *in a manner that makes the tobacco suitable for chewing or smoking in a pipe*  
26 *or otherwise, or for both chewing and smoking*];

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

28 (C) A device that:

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

31 (ii) Has not been approved by the United States Food and Drug Admin-

1 istration for sale as a tobacco cessation product or for any other therapeutic  
2 purpose, if the product is marketed and sold solely for the approved purpose.

3 (2) It is unlawful:

4 [(a) *To violate ORS 167.755.*]

5 **(a) To distribute, sell or offer for sale in this state tobacco products**  
6 **or inhalant delivery systems to a person under 21 years of age. A**  
7 **business entity or person who is an owner of a business entity that is**  
8 **engaged in the retail sale of tobacco products or inhalant delivery**  
9 **systems violates this paragraph if the owner or an employee, agent or**  
10 **other representative of the business entity distributes, sells or offers**  
11 **for sale tobacco products or inhalant delivery systems to a person**  
12 **under 21 years of age.**

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 in this state**  
22 **an inhalant delivery system if the inhalant delivery system is not labeled in**  
23 **accordance with rules adopted by the authority.**

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

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

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

1 cigarettes.

2 **(h) To distribute, offer or otherwise provide, without compensation,**  
3 **tobacco products or inhalant delivery systems.**

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

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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.

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12 **(4) The authority may adopt rules to regulate the wholesale or re-**  
13 **tail sale of tobacco products or inhalant delivery systems in this state**  
14 **to protect the public health and safety of the residents of this state.**

15 [(4)] **(5)** Rules adopted under subsection (2)(d), (e) and (f) of this section  
16 must be consistent with any regulation adopted by the United States Food  
17 and Drug Administration related to labeling or packaging requirements for  
18 inhalant delivery systems.

19 **SECTION 2.** ORS 180.441 is amended to read:

20 180.441. (1)(a) A person engaged in the business of selling cigarettes,  
21 inhalant delivery systems or smokeless tobacco products for profit may not  
22 ship or transport, or cause to be shipped or transported, cigarettes, inhalant  
23 delivery systems or smokeless tobacco products ordered or purchased by mail  
24 or telephone or through a computer or other electronic network to any per-  
25 son in this state other than a distributor or retailer.

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

30 (2) A retailer may not sell cigarettes, inhalant delivery systems or  
31 smokeless tobacco products unless the retailer or an employee of the retailer

1 makes the sale to the purchaser in person as part of a face-to-face exchange  
2 **that occurs on premises, as defined in ORS 431A.190, that are licensed**  
3 **under ORS 431A.198 or an ordinance, rule or resolution adopted by a**  
4 **local government as defined in ORS 174.116.**

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

7 **SECTION 3.** ORS 323.500 is amended to read:

8 323.500. As used in ORS 323.500 to 323.645, unless the context otherwise  
9 requires:

10 (1) “Business” means any trade, occupation, activity or enterprise engaged  
11 in for the purpose of selling or distributing tobacco products in this state.

12 (2) “Cigar” means a roll for smoking that is of any size or shape and that  
13 is made wholly or in part of tobacco, irrespective of whether the tobacco is  
14 pure or flavored, adulterated or mixed with any other ingredient, if the roll  
15 has a wrapper made wholly or in greater part of tobacco and if 1,000 of these  
16 rolls collectively weigh more than three pounds. “Cigar” does not include a  
17 cigarette, as defined in ORS 323.010.

18 (3) “Consumer” means any person who purchases tobacco products in this  
19 state for the person’s use or consumption or for any purpose other than for  
20 reselling the tobacco products to another person.

21 (4) “Contraband tobacco products” means tobacco products or packages  
22 containing tobacco products:

23 (a) That do not comply with the requirements of ORS 323.500 to 323.645;

24 (b) That do not comply with the requirements of the tobacco products tax  
25 laws of the federal government or of other states;

26 (c) That bear trademarks that are counterfeit under ORS 647.135 or other  
27 state or federal trademark laws; or

28 (d) That have been sold, offered for sale or possessed for sale in this state  
29 in violation of ORS 180.486.

30 (5) “Department” means the Department of Revenue.

31 (6) “Distribute” means:

1 (a) Bringing, or causing to be brought, into this state from without this  
2 state tobacco products for sale, storage, use or consumption;

3 (b) Making, manufacturing or fabricating tobacco products in this state  
4 for sale, storage, use or consumption in this state;

5 (c) Shipping or transporting tobacco products to retail dealers in this  
6 state, to be sold, stored, used or consumed by those retail dealers;

7 (d) Storing untaxed tobacco products in this state that are intended to  
8 be for sale, use or consumption in this state;

9 (e) Selling untaxed tobacco products in this state; or

10 (f) As a consumer, being in possession of untaxed tobacco products in this  
11 state.

12 (7) "Distributor" means:

13 (a) Any person engaged in the business of selling tobacco products in this  
14 state who brings, or causes to be brought, into this state from without the  
15 state any tobacco products for sale;

16 (b) Any person who makes, manufactures or fabricates tobacco products  
17 in this state for sale in this state;

18 (c) Any person engaged in the business of selling tobacco products with-  
19 out this state who ships or transports tobacco products to retail dealers in  
20 this state, to be sold by those retail dealers;

21 (d) Any person, including a retail dealer, who sells untaxed tobacco pro-  
22 ducts in this state; or

23 (e) A consumer in possession of untaxed tobacco products in this state.

24 (8)(a) "Inhalant delivery system" means:

25 (A) A device that can be used to deliver nicotine in the form of a vapor  
26 or aerosol to a person inhaling from the device; or

27 (B) A component of a device described in this paragraph or a substance  
28 in any form sold for the purpose of being vaporized or aerosolized by a device  
29 described in this paragraph, whether the component or substance is sold  
30 separately or is not sold separately.

31 (b) "Inhalant delivery system" does not include:

1 (A) Any product that has been approved by the United States Food and  
2 Drug Administration for sale as a tobacco cessation product or for any other  
3 therapeutic purpose, if the product is marketed and sold solely for the ap-  
4 proved purpose;

5 (B) If sold separately, battery chargers, straps or lanyards; or

6 (C) Marijuana items as defined in ORS 475C.009.

7 (9) "Manufacturer" means a person who manufactures tobacco products  
8 for sale.

9 (10) "Moist snuff" means:

10 (a) Any finely cut, ground or powdered tobacco that is not intended to  
11 be smoked or placed in a nasal cavity; or

12 (b) Any other product containing tobacco that is intended or expected to  
13 be consumed without being combusted.

14 (11) "Place of business" means any place where tobacco products are sold  
15 or where tobacco products are manufactured, stored or kept for the purpose  
16 of sale or consumption, including any vessel, vehicle, airplane, train or  
17 vending machine.

18 (12) "Retail dealer" means any person who is engaged in the business of  
19 selling or otherwise dispensing tobacco products to consumers. The term also  
20 includes the operators of or recipients of revenue from all places such as  
21 smoke shops, cigar stores and vending machines, where tobacco products are  
22 made or stored for ultimate sale to consumers.

23 (13) "Sale" means any transfer, exchange or barter, in any manner or by  
24 any means, for a consideration, and includes and means all sales made by  
25 any person. It includes a gift by a person engaged in the business of selling  
26 tobacco products, for advertising, as a means of evading the provisions of  
27 ORS 323.500 to 323.645, or for any other purpose.

28 (14) "Taxpayer" includes a distributor or other person required to pay a  
29 tax imposed under ORS 323.500 to 323.645.

30 (15) "Tobacco products" means cigars, cheroots, stogies, periques,  
31 granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco,

1 snuff, snuff flour, moist snuff, cavendish, plug and twist tobacco, fine-cut and  
2 other chewing tobaccos, shorts, refuse scraps, clippings, cuttings and  
3 sweepings of tobacco and other kinds and forms of tobacco, prepared in such  
4 manner as to be suitable for chewing or smoking in a pipe or otherwise, or  
5 both for chewing and smoking, [and] inhalant delivery systems, **oral**  
6 **nicotine pouches, nicotine lozenges and other products containing**  
7 **nicotine derived from any source**, but does not include cigarettes as de-  
8 fined in ORS 323.010 **or products that have been approved by the United**  
9 **States Food and Drug Administration for sale as a tobacco cessation**  
10 **product or for any other therapeutic purpose, if the product is mar-**  
11 **keted and sold solely for the approved purpose.**

12 (16) “Untaxed tobacco products” means tobacco products for which the  
13 tax required under ORS 323.500 to 323.645 has not been paid.

14 (17) “Wholesale sales price” means the price paid for untaxed tobacco  
15 products to or on behalf of a seller by a purchaser of the untaxed tobacco  
16 products.

17 **SECTION 4.** ORS 431A.183 is amended to read:

18 431A.183. (1)(a) The Oregon Health Authority may enter into an agree-  
19 ment with federal agencies to assist the authority in monitoring and en-  
20 forcing federal laws and regulations related to tobacco products or inhalant  
21 delivery systems.

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

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

28 (2)(a) The authority may enter into an agreement with federal, state and  
29 local government agencies, including federal, state and local law enforcement  
30 agencies, to assist the authority in carrying out the authority’s duties under  
31 ORS 431A.175 and to conduct random, unannounced inspections of whole-



1 salers and retailers of tobacco products or inhalant delivery systems to en-  
2 sure compliance with the laws of this state designed to discourage the use  
3 of tobacco products and inhalant delivery systems by persons under 21 years  
4 of age, including ORS [~~167.755,~~] 167.760, 167.765, 167.770, 167.775, 167.780 and  
5 431A.175.

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

10 (c) The authority may adopt rules to carry out paragraph (b) of this sub-  
11 section.

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

16 (b) The department may not use the services of a retired state police of-  
17 ficer to displace an active state police member.

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

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

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

31 (b) The report submitted under this subsection must contain information

1 describing:

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

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

6 (C) The strategies to be utilized for enforcing the laws listed in subsection  
7 (2) of this section during the biennium following the report.

8 (6) The authority shall adopt rules for conducting random inspections of  
9 establishments that distribute or sell tobacco products or inhalant delivery  
10 systems. The rules shall provide that inspections may take place:

11 (a) Only in areas open to the public;

12 (b) Only during the hours that tobacco products or inhalant delivery  
13 systems are distributed or sold; and

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

16 **SECTION 5. ORS 167.750 and 167.755 are repealed.**

17 **SECTION 6. (1) The amendments to ORS 431A.175 by section 1 of  
18 this 2025 Act become operative on October 1, 2025.**

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

25 **SECTION 7. This 2025 Act takes effect on the 91st day after the date  
26 on which the 2025 regular session of the Eighty-third Legislative As-  
27 sembly adjourns sine die.**

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