

A-Engrossed House Bill 2967

Ordered by the House June 6
Including House Amendments dated June 6

Sponsored by COMMITTEE ON REVENUE

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.

[Eliminates cap on maximum amount of tobacco products tax imposed on cigars.]

[Applies to tobacco products tax reporting periods beginning on or after effective date of Act.]

[Takes effect on 91st day following adjournment sine die.]

Creates Oregon Healthy Kids Program to provide health insurance to uninsured children under 19 years of age. Establishes provisions relating to implementation, funding and administration of program.

Increases taxes on tobacco products and revises distribution formula of tobacco tax revenues.

Refers Act to people for their approval or rejection at special election to be held on date specified in chapter _____, Oregon Laws 2007 (Enrolled _____ Bill _____) (LC _____).

A BILL FOR AN ACT

1
2 Relating to tobacco products taxation; creating new provisions; amending ORS 323.457 and 323.505;
3 appropriating money; providing for revenue raising that requires approval by a three-fifths ma-
4 jority; and providing that this Act shall be referred to the people for their approval or rejection.

5 Whereas more than 117,000 Oregon children do not have health insurance; and

6 Whereas health care costs continue to rise, putting affordable health care further out of reach
7 for thousands of Oregonians and their children; and

8 Whereas health insurance coverage is key to ensuring children's access to appropriate and
9 necessary health care, including preventive services; and

10 Whereas children without health insurance are much less likely to have access to basic pre-
11 ventive health care and to receive early treatment for injuries and disease, greatly endangering
12 their health and their future; and

13 Whereas to protect the health of Oregon's children, the state should ensure access to health
14 care through insurance coverage, support of safety net clinics and greater provision of health care
15 in rural Oregon; and

16 Whereas to protect the health of Oregon's children, the state needs a robust tobacco use pre-
17 vention and education program; and

18 Whereas it is in the best interest of the state to provide for the health and welfare of Oregon's
19 children; now, therefore,

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

OREGON HEALTHY KIDS PROGRAM

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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.

1 **SECTION 1.** The Oregon Healthy Kids Program is created to provide affordable, accessi-
2 ble health care for Oregon's children. The program is composed of:

3 (1) A statewide Healthy Kids Nurse Advice Line;

4 (2) A statewide Healthy Kids Health Care Access Line used in conjunction with statewide
5 enrollment and retention efforts;

6 (3) Medical assistance provided to children under the Oregon Health Plan and other state
7 programs funded by the Legislative Assembly;

8 (4) A private health option administered by the Office of Private Health Partnerships
9 under sections 4, 5 and 6 of this 2007 Act;

10 (5) Dedicated funds to support safety net clinics and provision of health care in rural
11 Oregon; and

12 (6) Expanded access to comprehensive health care services for pregnant women.

13 **SECTION 2.** (1) The Oregon Healthy Kids Fund is established in the State Treasury,
14 separate and distinct from the General Fund. Interest earned by the Oregon Healthy Kids
15 Fund shall be credited to the Oregon Healthy Kids Fund.

16 (2)(a) Except as provided in paragraphs (b) and (c) of this subsection, moneys in the
17 Oregon Healthy Kids Fund are continuously appropriated to the Department of Human Ser-
18 vices and the Office of Private Health Partnerships to provide health care to:

19 (A) Uninsured children under 19 years of age through the Oregon Health Plan, the Family
20 Health Insurance Assistance Program and the private health option described in sections 4,
21 5 and 6 of this 2007 Act.

22 (B) Pregnant women eligible for the Oregon Health Plan under section 3 (4) of this 2007
23 Act.

24 (b) 3.97 percent of the moneys in the Oregon Healthy Kids Fund shall be transferred to
25 the Healthy Kids Safety Net Account created under section 9 of this 2007 Act for providing
26 grants under section 10 of this 2007 Act.

27 (c) 1.52 percent of the moneys in the Oregon Healthy Kids Fund shall be transferred to
28 the Rural Health Care Revolving Account created under ORS 442.480 for the purpose of pro-
29 viding grants under section 12 of this 2007 Act.

30 (3) Notwithstanding subsection (2) of this section, if and to the extent that the Legislative
31 Assembly determines that the Oregon Healthy Kids Program is fully funded, moneys in the
32 Oregon Healthy Kids Fund established by this section may be used, in amounts determined
33 by the Legislative Assembly, to improve children's health and fund other health services.

34 **SECTION 3.** (1) Except as provided in subsection (2) of this section, to be eligible for
35 health insurance under the Oregon Healthy Kids Program, a child under 19 years of age must
36 be uninsured for a minimum of 60 consecutive days immediately preceding enrollment.

37 (2) The Department of Human Services may adopt rules specifying exceptions to the re-
38 quirement in subsection (1) of this section.

39 (3) A child under 19 years of age is eligible for enrollment in the Oregon Health Plan or
40 the Family Health Insurance Assistance Program only if the household income of the child's
41 family is no more than 200 percent of the federal poverty guidelines.

42 (4) A pregnant woman is eligible for enrollment in the Oregon Health Plan only if the
43 household income of the woman's family is no more than 250 percent of the federal poverty
44 guidelines.

45 (5) The department shall adopt rules for annually renewing enrollment in the Oregon

1 **Healthy Kids Program.**

2 (6) The department shall adopt verification requirements to ensure that children and
3 pregnant women receiving health insurance under the Oregon Healthy Kids Program are le-
4 gal residents.

5 (7) As used in this section:

6 (a) "Health benefit plan" has the meaning given that term in ORS 735.720.

7 (b) "Health insurance" means a health benefit plan that is not paid for with funds from
8 Title XIX of the Social Security Act.

9 (c) "Uninsured" means that a person is not enrolled in an unsubsidized or privately
10 funded health benefit plan.

11 **SECTION 4.** (1) The Office of Private Health Partnerships shall administer a private
12 health option to provide access to private health care coverage for Oregon's children.

13 (2) The office shall contract with carriers to provide health benefit plans approved under
14 section 5 of this 2007 Act.

15 (3) The office shall provide financial assistance for the private health option for a child
16 under 19 years of age whose family's household income is more than 200 percent but no more
17 than 250 percent of the federal poverty guidelines. The amount of the financial assistance
18 shall be determined in accordance with subsection (4) of this section and is payable to the
19 carrier in the manner specified by contract.

20 (4) The office shall adopt rules for determining the financial assistance to be provided
21 under this section based upon criteria including but not limited to household income and
22 family size.

23 (5) The office shall adopt rules under which families with household incomes that are
24 more than 250 percent of the federal poverty guidelines may purchase the private health
25 option without financial assistance from the office.

26 (6) As used in this section and section 5 of this 2007 Act:

27 (a) "Carrier" has the meaning given that term in ORS 735.700.

28 (b) "Health benefit plan" has the meaning given that term in ORS 735.720.

29 **SECTION 5.** (1) The Office of Private Health Partnerships must approve health benefit
30 plans offered through the private health option described in section 4 of this 2007 Act. To be
31 approved, health benefit plans must offer benefit packages comparable to those provided
32 under section 1 (3) of this 2007 Act and must cover mental health, vision and dental services.

33 (2) Approved health benefit plans may impose cost sharing based upon household income
34 and family size according to standards prescribed by the office by rule.

35 (3) Approved health benefit plans may not exclude coverage of pre-existing conditions.

36 **SECTION 6.** The Private Health Option Program Account is created in the Oregon
37 Healthy Kids Fund. The account shall consist of moneys in the Oregon Healthy Kids Fund
38 that are made available to the Office of Private Health Partnerships for the purpose of op-
39 erating the private health option. Moneys in the account are continuously appropriated to
40 the office to carry out the provisions of sections 4 and 5 of this 2007 Act. Interest earned
41 by the account shall be credited to the Oregon Healthy Kids Fund.

42 **SECTION 7.** (1) The Office for Oregon Health Policy and Research shall analyze and
43 evaluate the implementation of the Oregon Healthy Kids Program and report its findings to
44 the Legislative Assembly by February 1 of each odd-numbered year.

45 (2) Whenever the office determines that further information is necessary or desirable to

1 assess the effectiveness of the Oregon Healthy Kids Program in meeting the program's goals,
2 the office may conduct any further examination, including but not limited to authorizing a
3 full independent audit of the program.

4 **SECTION 8.** (1) The Department of Human Services shall apply to the Centers for Medi-
5 care and Medicaid Services for the waivers necessary to implement sections 1, 2, 3, 4, 5 and
6 6 of this 2007 Act and to obtain federal financial participation for health care coverage or
7 services provided to children and pregnant women through the Oregon Healthy Kids Pro-
8 gram.

9 (2) The department shall adopt rules implementing sections 1, 2 and 3 of this 2007 Act
10 as soon as practicable after receipt of the necessary waivers.

11 **SECTION 9.** (1) The Healthy Kids Safety Net Account is established in the State Treas-
12 ury, separate and distinct from the General Fund. Interest earned by the Healthy Kids Safety
13 Net Account shall be credited to the account. The Healthy Kids Safety Net Account shall
14 consist of moneys transferred to the account under section 2 of this 2007 Act and moneys
15 received by the Department of Human Services in the form of gifts, grants, bequests,
16 endowments or donations.

17 (2) Moneys in the Healthy Kids Safety Net Account are continuously appropriated to the
18 Department of Human Services for the purpose of carrying out the provisions of section 10
19 of this 2007 Act.

20 **SECTION 10.** (1) The Department of Human Services shall award grants to community
21 health centers or safety net clinics to ensure the capacity of each grantee to provide health
22 care services to underserved or vulnerable populations.

23 (2) The department shall by rule adopt criteria for awarding grants under this section.

24 **SECTION 11.** (1) A prepaid managed care health services organization that contracts with
25 the Department of Human Services pursuant to ORS 414.630 shall reimburse a qualified
26 community health center or safety net clinic for a covered service provided by the center
27 or clinic to an enrollee of the organization participating in a program described in section 1
28 (3) of this 2007 Act. The department by rule shall adopt standards for qualifying community
29 health centers and safety net clinics for reimbursement under this subsection.

30 (2) As used in this section and section 10 of this 2007 Act, "community health center or
31 safety net clinic" means a nonprofit health clinic that provides primary physical health, vi-
32 sion, dental or mental health services to low-income patients without charge or using a
33 sliding fee scale based on the income of the patient. "Community health center or safety net
34 clinic" includes a school-based health center.

35 **SECTION 12.** Out of funds transferred under section 2 of this 2007 Act to the Rural
36 Health Care Revolving Account, the Office of Rural Health shall award grants to increase
37 access to rural health care for children, including but not limited to grants for:

38 (1) Replacement or renovation of aging rural medical facilities and equipment;

39 (2) Preservation of access to local health services in rural areas through short-term
40 support of rural health care providers;

41 (3) Expansion of community health education opportunities; and

42 (4) Providing operational support for rural health centers that are not federally qualified
43 health centers.

44 **SECTION 13.** Except as otherwise provided in this section and ORS 735.710, the Office
45 of Private Health Partnerships and the Department of Human Services may not disclose in-

1 formation provided as part of an application for enrollment in the Oregon Healthy Kids
2 Program except for purposes directly connected with the administration or evaluation of the
3 program.

4
5 **CIGARETTE TAX**
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7 **SECTION 14.** Sections 15, 16 and 19 to 23 of this 2007 Act are added to and made a part
8 of ORS 323.005 to 323.482.

9 **SECTION 15.** (1) Notwithstanding ORS 323.030 (2) and in addition to and not in lieu of any
10 other tax, every distributor shall pay a tax upon distributions of cigarettes at the rate of
11 42.25 mills for the distribution of each cigarette in this state.

12 (2) Any cigarette for which a tax has once been imposed under ORS 323.005 to 323.482
13 may not be subject upon a subsequent distribution to the taxes imposed by ORS 323.005 to
14 323.482.

15 **SECTION 16.** All moneys received by the Department of Revenue from the tax imposed
16 under section 15 of this 2007 Act shall be paid over to the State Treasurer to be held in a
17 suspense account established under ORS 293.445. After the payment of refunds:

18 (1) 6.5 percent shall be transferred to the suspense account created pursuant to ORS
19 323.455 (1) and credited in the same manner as moneys received from the tax imposed by ORS
20 323.030 (1);

21 (2) 13 percent shall be transferred to the suspense account created pursuant to ORS
22 323.457 (1) and credited in the same manner as moneys received from the tax imposed by ORS
23 323.031 (1); and

24 (3) The balance of the moneys in the account, after the amounts described in subsections
25 (1) and (2) of this section are transferred, shall be credited as follows:

26 (a) 4.918 percent shall be credited to the Tobacco Use Reduction Account established
27 under ORS 431.832 to fund cigarette and tobacco use prevention and education programs re-
28 commended in the Best Practices for Comprehensive Tobacco Control Programs published
29 by the United States Department of Health and Human Services, Centers for Disease Control
30 and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Of-
31 fice on Smoking and Health, August 1999; and

32 (b) The remainder shall be credited to the Oregon Healthy Kids Fund established by
33 section 2 of this 2007 Act.

34 **SECTION 17.** Section 16 of this 2007 Act is amended to read:

35 **Sec. 16.** All moneys received by the Department of Revenue from the tax imposed under section
36 15 of this 2007 Act shall be paid over to the State Treasurer to be held in a suspense account es-
37 tablished under ORS 293.445. After the payment of refunds:

38 (1) 6.5 percent shall be transferred to the suspense account created pursuant to ORS 323.455 (1)
39 and credited in the same manner as moneys received from the tax imposed by ORS 323.030 (1);

40 (2) 13 percent shall be transferred to the suspense account created pursuant to ORS 323.457 (1)
41 and credited in the same manner as moneys received from the tax imposed by ORS 323.031 (1); and

42 (3) The balance of the moneys in the account, after the amounts described in subsections (1) and
43 (2) of this section are transferred, shall be credited as follows:

44 (a) [4.918] 10 percent shall be credited to the Tobacco Use Reduction Account established under
45 ORS 431.832 to fund cigarette and tobacco use prevention and education programs recommended in

1 the Best Practices for Comprehensive Tobacco Control Programs published by the United States
2 Department of Health and Human Services, Centers for Disease Control and Prevention, National
3 Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, August
4 1999; and

5 (b) The remainder shall be credited to the Oregon Healthy Kids Fund established by section 2
6 of this 2007 Act.

7 **SECTION 18.** The amendments to section 16 of this 2007 Act by section 17 of this 2007
8 Act become operative on July 1, 2009.

9 **SECTION 19.** (1) Notwithstanding ORS 323.030 (3) and in addition to and not in lieu of any
10 other tax, for the privilege of holding or storing cigarettes for sale, use or consumption, a
11 floor tax is imposed upon every dealer at the rate of 42.25 mills for each cigarette in the
12 possession of or under the control of the dealer in this state at 12:01 a.m. on January 1, 2008.

13 (2) The tax imposed by this section is due and payable on or before January 21, 2008. Any
14 amount of tax that is not paid within the time required shall bear interest at the rate es-
15 tablished under ORS 305.220 per month, or fraction of a month, from the date on which the
16 tax is due to be paid, until paid.

17 (3) On or before January 21, 2008, every dealer must file a report with the Department
18 of Revenue in such form as the department may prescribe. The report must state the num-
19 ber of cigarettes in the possession of or under the control of the dealer in this state at 12:01
20 a.m. on January 1, 2008, and the amount of tax due. Each report must be accompanied by a
21 remittance payable to the department for the amount of tax due.

22 **SECTION 20.** Notwithstanding ORS 323.030 (3) and in addition to and not in lieu of any
23 other tax, for the privilege of distributing cigarettes as a distributor and for holding or
24 storing cigarettes for sale, use or consumption, a floor tax and cigarette adjustment indicia
25 tax is imposed upon every distributor in the amount of \$1.05625 for each Oregon cigarette
26 tax stamp bearing the designation "25," in the amount of 84.5 cents for each Oregon cigarette
27 tax stamp bearing the designation "20," in the amount of 42.25 cents for each Oregon ciga-
28 rette tax stamp bearing the designation "10" and in the amount of 4.225 cents for each
29 Oregon cigarette tax stamp bearing the designation "1" that is affixed to any package of
30 cigarettes in the possession of or under the control of the distributor at 12:01 a.m. on Jan-
31 uary 1, 2008.

32 **SECTION 21.** (1) Every distributor must take an inventory as of 12:01 a.m. on January
33 1, 2008, of all packages of cigarettes to which are affixed Oregon cigarette tax stamps and
34 of all unaffixed Oregon cigarette tax stamps in the possession of or under the control of the
35 distributor.

36 (2) Every distributor must file a report with the Department of Revenue on or before
37 January 21, 2008, in such form as the department may prescribe, showing:

38 (a) The number of Oregon cigarette tax stamps, with the designations of the stamps, that
39 were affixed to packages of cigarettes in the possession of or under the control of the dis-
40 tributor at 12:01 a.m. on January 1, 2008; and

41 (b) The number of unaffixed Oregon cigarette tax stamps, with the designations of the
42 stamps, that were in the possession of or under the control of the distributor at 12:01 a.m.
43 on January 1, 2008.

44 (3) The amount of tax required to be paid with respect to the affixed Oregon cigarette
45 tax stamps shall be computed pursuant to section 20 of this 2007 Act and remitted with the

1 distributor's report. Any amount of tax not paid within the time specified for the filing of
2 the report shall bear interest at the rate established under ORS 305.220 per month, or frac-
3 tion of a month, from the due date of the report until paid.

4 (4) Notwithstanding ORS 323.320, the department may establish a date after which the
5 value of stamps sold prior to January 1, 2008, will not be refunded or credited to a distribu-
6 tor.

7 **SECTION 22.** All moneys received by the Department of Revenue from the taxes imposed
8 by sections 19 and 20 of this 2007 Act shall be paid over to the State Treasurer to be held in
9 a suspense account established under ORS 293.445. After the payment of refunds, the net
10 amount of revenues remaining shall be distributed as prescribed in section 16 of this 2007
11 Act.

12 **SECTION 23.** Amounts necessary to pay the expenses incurred by the Department of
13 Revenue and to reimburse the Oregon State Police and the Department of Justice for the
14 administration and enforcement of ORS 323.005 to 323.482 are continuously appropriated to
15 the Department of Revenue from the suspense accounts described in sections 16 and 22 of
16 this 2007 Act.

17 **SECTION 24.** Section 23 of this 2007 Act is repealed July 1, 2009.

18 **SECTION 25.** ORS 323.457, as amended by section 5e, chapter 804, Oregon Laws 2003, and
19 section 110, chapter 94, Oregon Laws 2005, is amended to read:

20 323.457. (1) Moneys received under ORS 323.031 shall be paid over to the State Treasurer to be
21 held in a suspense account established under ORS 293.445. After the payment of refunds:

22 (a) [29.37/30] **47/50** of the moneys shall be credited to the Oregon Health Plan Fund established
23 under ORS 414.109;

24 (b) [0.14/30] **1/50** of the moneys are continuously appropriated to the Oregon Department of
25 Administrative Services for distribution to the cities of this state;

26 (c) [0.14/30] **1/50** of the moneys are continuously appropriated to the Oregon Department of
27 Administrative Services for distribution to the counties of this state; **and**

28 (d) [0.14/30] **1/50** of the moneys are continuously appropriated to the Department of Transpor-
29 tation to be distributed and transferred to the Elderly and Disabled Special Transportation Fund
30 established under ORS 391.800.[: and]

31 [(e) 0.21/30 of the moneys shall be credited to the Tobacco Use Reduction Account established un-
32 der ORS 431.832.]

33 (2)(a) Moneys distributed to cities and counties under this section shall be distributed to each
34 city or county using the proportions used for distributions made under ORS 323.455.

35 (b) Moneys shall be distributed to cities, counties and the Elderly and Disabled Special Trans-
36 portation Fund at the same time moneys are distributed to cities, counties and the Elderly and
37 Disabled Special Transportation Fund under ORS 323.455.

38 39 TOBACCO PRODUCTS TAX 40

41 **SECTION 26.** ORS 323.505 is amended to read:

42 323.505. (1) A tax is hereby imposed upon the distribution of all tobacco products in this state.
43 The tax imposed by this section is intended to be a direct tax on the consumer, for which payment
44 upon distribution is required to achieve convenience and facility in the collection and administration
45 of the tax. The tax shall be imposed on a distributor at the time the distributor distributes tobacco

1 products.

2 (2) The tax imposed under this section shall be imposed at the rate of:

3 (a) [*Sixty-five*] **Ninety-five** percent of the wholesale sales price of cigars, but not to exceed 50
4 cents per cigar; or

5 (b) [*Sixty-five*] **Ninety-five** percent of the wholesale sales price of all tobacco products that are
6 not cigars.

7 (3) If the tax imposed under this section does not equal an amount calculable to a whole cent,
8 the tax shall be equal to the next higher whole cent. However, the amount remitted to the Depart-
9 ment of Revenue by the taxpayer for each quarter shall be equal only to 98.5 percent of the total
10 taxes due and payable by the taxpayer for the quarter.

11 (4) No tobacco product shall be subject to the tax if the base product or other intermediate form
12 thereof has previously been taxed under this section.

13 **SECTION 27. Sections 1, 2, 3, 8 and 11 of this 2007 Act are added to and made a part of**
14 **ORS chapter 414.**

15 **SECTION 28. Sections 4, 5 and 6 of this 2007 Act are added to and made a part of ORS**
16 **chapter 735.**

17 **SECTION 29. Section 12 of this 2007 Act is added to and made a part of ORS 442.470 to**
18 **442.507.**

19 **SECTION 30. Sections 15 and 16 of this 2007 Act apply to cigarette distributions occurring**
20 **on or after January 1, 2008.**

21 **SECTION 31. The amendments to ORS 323.457 by section 25 of this 2007 Act become op-**
22 **erative on January 1, 2008.**

23 **SECTION 32. The amendments to ORS 323.505 by section 26 of this 2007 Act apply to to-**
24 **bacco products tax reporting periods beginning on or after January 1, 2008.**

25 **SECTION 33. The unit captions used in this 2007 Act are provided only for the conven-**
26 **ience of the reader and do not become part of the statutory law of this state or express any**
27 **legislative intent in the enactment of this 2007 Act.**

28

29

REFERRAL TO VOTERS

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31 **SECTION 34. This 2007 Act shall be submitted to the people for their approval or re-**
32 **jection at a special election held throughout this state as provided in chapter _____,**
33 **Oregon Laws 2007 (Enrolled _____ Bill _____) (LC _____).**

34