

# House Bill 3454

Sponsored by Representatives BUTLER, BARNHART, Senators DECKERT, MORSE (at the request of Attorney General Hardy Myers for Department of Justice)

## 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 **as introduced**.

Provides that manufacturer of roll-your-own tobacco must make escrow payments in same manner as manufacturers of cigarettes for purpose of providing source for payment of certain judgments and settlements on claims against manufacturer.

## A BILL FOR AN ACT

1  
2 Relating to tobacco; amending ORS 323.800.

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

4 **SECTION 1.** ORS 323.800 is amended to read:

5 323.800. As used in ORS 323.800 to 323.806:

6 (1) "Adjusted for inflation" means increased in accordance with the formula for inflation ad-  
7 justment set forth in Exhibit C to the Master Settlement Agreement.

8 (2)(a) "Affiliate" means a person who directly or indirectly owns or controls, is owned or con-  
9 trolled by, or is under common ownership or control with, another person.

10 (b) For purposes of defining "affiliate":

11 (A) The terms "owns," "is owned" and "ownership" mean ownership of an equity interest, or the  
12 equivalent thereof, of 10 percent or more; and

13 (B) The term "person" means an individual, partnership, committee, association, corporation or  
14 any other organization or group of persons.

15 (3) "Allocable share" means Allocable Share as that term is defined in the Master Settlement  
16 Agreement.

17 (4)(a) "Cigarette" means any product that contains nicotine, is intended to be burned or heated  
18 under ordinary conditions of use, and consists of or contains:

19 (A) Any roll of tobacco wrapped in paper or in any substance not containing tobacco;

20 (B) Tobacco, in any form, that is functional in the product and that because of its appearance,  
21 the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or  
22 purchased by, consumers as a cigarette; or

23 (C) Any roll of tobacco wrapped in any substance containing tobacco that, because of its ap-  
24 pearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered  
25 to, or purchased by, consumers as a cigarette described in subparagraph (A) of this paragraph.

26 (b) The term "cigarette" includes "roll-your-own tobacco" (i.e., tobacco that, because of its ap-  
27 pearance, type, packaging or labeling, is suitable for use and likely to be offered to, or purchased  
28 by, consumers as tobacco for making cigarettes). For purposes of this paragraph, 0.09 ounces of  
29 roll-your-own tobacco shall constitute one individual cigarette.

30 (5) "Master Settlement Agreement" means the settlement agreement (and related documents)

**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 entered into on November 23, 1998, by the State of Oregon and leading United States tobacco  
 2 product manufacturers.

3 (6) "Qualified escrow fund" means an escrow arrangement with a federally or state chartered  
 4 financial institution having no affiliation with any tobacco product manufacturer and having assets  
 5 of at least \$1 billion where such arrangement requires that such financial institution hold the  
 6 escrowed funds' principal for the benefit of releasing parties and prohibits the tobacco product  
 7 manufacturer who is placing the funds into escrow from using, accessing or directing the use of the  
 8 escrowed funds' principal except as consistent with ORS 323.806 (2)(b).

9 (7) "Released claims" means Released Claims as that term is defined in the Master Settlement  
 10 Agreement.

11 (8) "Releasing parties" means Releasing Parties as that term is defined in the Master Settlement  
 12 Agreement.

13 (9)(a) "Tobacco product manufacturer" means an entity that, after October 23, 1999, directly  
 14 (and not exclusively through any affiliate):

15 (A) Manufactures cigarettes anywhere that such manufacturer intends to be sold in the United  
 16 States, including cigarettes intended to be sold in the United States through an importer (except  
 17 where such importer is an Original Participating Manufacturer (as that term is defined in the  
 18 Master Settlement Agreement) that will be responsible for the payments under the Master Settle-  
 19 ment Agreement with respect to such cigarettes as a result of the provisions of subsection II(mm)  
 20 of the Master Settlement Agreement and that pays the taxes specified in subsection II(z) of the  
 21 Master Settlement Agreement, and provided that the manufacturer of such cigarettes does not  
 22 market or advertise such cigarettes in the United States);

23 (B) Is the first purchaser anywhere for resale in the United States of cigarettes manufactured  
 24 anywhere that the manufacturer does not intend to be sold in the United States; or

25 (C) Becomes a successor of an entity described in subparagraph (A) or (B) of this paragraph.

26 (b) The term "tobacco product manufacturer" does not include an affiliate of a tobacco product  
 27 manufacturer unless such affiliate is itself a tobacco product manufacturer under paragraph (a)(A),  
 28 (B) or (C) of this subsection.

29 (10) "Units sold" means the number of individual cigarettes sold in the State of Oregon by the  
 30 applicable tobacco product manufacturer (whether directly or through a distributor, retailer or  
 31 similar intermediary or intermediaries) during the year in question, as measured by excise taxes  
 32 collected by the State of Oregon on **roll-your-own tobacco containers or on** packs [*or roll-your-*  
 33 *own tobacco containers*] bearing the excise tax stamp of this state. The Department of Revenue shall  
 34 promulgate such rules as are necessary to ascertain the amount of state excise tax paid on the  
 35 cigarettes of such tobacco product manufacturer for each year.

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