

## SENATE AMENDMENTS TO SENATE BILL 571

By COMMITTEE ON JUDICIARY

April 19

1 On page 1 of the printed bill, line 2, after “smoking;” delete the rest of the line and insert  
2 “creating new provisions; amending ORS 192.660, 433.835, 433.840, 433.845, 433.850, 433.855, 433.870,  
3 433.990, 441.030, 441.815 and 441.990;”.

4 After line 22, insert:

5 “(4) ‘Smoke shop’ means a business that:

6 “(a) Is primarily engaged in the sale of tobacco products and smoking instruments, with at least  
7 75 percent of the gross revenues of the business resulting from such sales;

8 “(b) Prohibits persons under 18 years of age from entering the premises;

9 “(c) Does not offer lottery games, social gaming or betting on the premises; and

10 “(d) Is a stand-alone business with no other businesses or residential property attached to the  
11 premises.”.

12 In line 23, delete “(4)” and insert “(5)”.

13 On page 2, line 4, delete “25” and insert “10”.

14 After line 41, insert:

15 “(c) Smoking is permitted in a smoke shop.”.

16 On page 3, after line 42, insert:

17 “**SECTION 8. Section 9 of this 2007 Act is added to and made a part of ORS 433.835 to**  
18 **433.875.**

19 “**SECTION 9. A smoke shop may offer on-premises consumption of alcoholic beverages**  
20 **if:**

21 “**(1) The smoke shop operator is a holder of a limited on-premises sales license issued by**  
22 **the Oregon Liquor Control Commission under ORS 471.178;**

23 “**(2) The smoke shop provides a separate lounge area for the consumption of alcoholic**  
24 **beverages and the smoke shop operator permits the consumption of alcoholic beverages only**  
25 **in the lounge area; and**

26 “**(3) Alcoholic beverages are offered for on-premises consumption only between 3 p.m.**  
27 **and 8 p.m.**

28 “**SECTION 10.** ORS 441.815 is amended to read:

29 “441.815. [(1) No hospital employee, patient or visitor shall smoke any cigar, cigarette or tobacco  
30 in any form in any:]

31 “[(a) Room of the hospital in which more than one patient is accommodated, unless the room is  
32 specifically designated for smoking; or]

33 “[(b) Other areas where patient care is provided in the hospital.]

34 “[(2) The administrator or person in charge of a hospital shall designate reasonable areas in lob-  
35 bies and waiting rooms where smoking is not permitted.]

1       “(3) *The administrator or person in charge of the hospital shall designate a reasonable number*  
2 *of rooms in the hospital where smoking is not permitted.*”

3       “(4) (1) As used in this section, ‘hospital’ has the meaning given the term in ORS 442.015.

4       “(2) **The administrator or person in charge of a hospital may not permit a person to**  
5 **smoke tobacco:**

6       “(a) **In the hospital; or**

7       “(b) **Within 10 feet of a doorway, open window or ventilation intake of the hospital.**

8       “(3) **The Director of Human Services may impose a civil penalty of not more than \$500**  
9 **per day on a person for violation of subsection (2) of this section. Civil penalties imposed**  
10 **against a person under this subsection may not exceed \$2,000 in any 30-day period. Civil**  
11 **penalties imposed under this subsection shall be imposed in the manner provided by ORS**  
12 **183.745.**

13       “(4) **The Department of Human Services may adopt rules necessary for the adminis-**  
14 **tration of this section.**

15       “**SECTION 11.** ORS 441.990 is amended to read:

16       “441.990. (1) Violation of ORS 441.015 (1) is a violation punishable, upon conviction, by a fine  
17 of not more than \$100 for the first violation and not more than \$500 for each subsequent violation.  
18 Each day of continuing violation after a first conviction shall be considered a subsequent violation.

19       “[(2)(a) *Violation of ORS 441.815 (1) is a violation punishable by a fine of \$10.*]

20       “[(b) *Violation of ORS 441.815 (2) or (3) is a Class D violation.*]

21       “[(3)] (2) Any person who willfully prevents, interferes with, or attempts to impede in any way  
22 the work of any duly authorized representative of the Department of Human Services in the lawful  
23 carrying out of the provisions of ORS 441.087 (1) is guilty of a Class C misdemeanor.

24       “[(4)] (3) The removal of the notice required by ORS 441.030 (5) by any person other than an  
25 official of the department is a Class C misdemeanor.

26       “**SECTION 12.** ORS 441.030 is amended to read:

27       “441.030. (1) The Department of Human Services, pursuant to ORS 479.215, shall deny, suspend  
28 or revoke a license in any case where the State Fire Marshal, or the representative of the State  
29 Fire Marshal, certifies that there is a failure to comply with all applicable laws, lawful ordinances  
30 and rules relating to safety from fire.

31       “(2) The department may deny, suspend or revoke a license in any case where it finds that there  
32 has been a substantial failure to comply with ORS 441.015 to 441.063, 441.085, 441.087, 441.990 [(3)]  
33 (2) or the rules or minimum standards adopted under those statutes.

34       “(3) The department may suspend or revoke a license issued under ORS 441.025 for failure to  
35 comply with a department order arising from a health care facility’s substantial lack of compliance  
36 with the provisions of ORS 441.015 to 441.063, 441.084 to 441.087 and 441.990 [(3)] (2) or ORS 441.162  
37 or 441.166, or the rules adopted thereunder, or for failure to pay a civil penalty imposed under ORS  
38 441.170 or 441.710.

39       “(4) The department may order a long term care facility licensed under ORS 441.025 to restrict  
40 the admission of patients when the department finds an immediate threat to patient health and  
41 safety arising from failure of the long term care facility to be in compliance with ORS 441.015 to  
42 441.063, 441.084 to 441.087 and the rules adopted pursuant thereto.

43       “(5) Any long term care facility which has been ordered to restrict the admission of patients  
44 pursuant to subsection (4) of this section shall post a notice of such restriction, provided by the  
45 department, on all doors providing ingress to and egress from the facility, for the duration of the

1 restriction.

2 **“SECTION 13.** ORS 192.660 is amended to read:

3 “192.660. (1) ORS 192.610 to 192.690 do not prevent the governing body of a public body from  
4 holding executive session during a regular, special or emergency meeting, after the presiding officer  
5 has identified the authorization under ORS 192.610 to 192.690 for holding the executive session.

6 “(2) The governing body of a public body may hold an executive session:

7 “(a) To consider the employment of a public officer, employee, staff member or individual agent.

8 “(b) To consider the dismissal or disciplining of, or to hear complaints or charges brought  
9 against, a public officer, employee, staff member or individual agent who does not request an open  
10 hearing.

11 “(c) To consider matters pertaining to the function of the medical staff of a public hospital li-  
12 censed pursuant to ORS 441.015 to 441.063, 441.085, 441.087 and 441.990 [(3)] (2) including, but not  
13 limited to, all clinical committees, executive, credentials, utilization review, peer review committees  
14 and all other matters relating to medical competency in the hospital.

15 “(d) To conduct deliberations with persons designated by the governing body to carry on labor  
16 negotiations.

17 “(e) To conduct deliberations with persons designated by the governing body to negotiate real  
18 property transactions.

19 “(f) To consider information or records that are exempt by law from public inspection.

20 “(g) To consider preliminary negotiations involving matters of trade or commerce in which the  
21 governing body is in competition with governing bodies in other states or nations.

22 “(h) To consult with counsel concerning the legal rights and duties of a public body with regard  
23 to current litigation or litigation likely to be filed.

24 “(i) To review and evaluate the employment-related performance of the chief executive officer  
25 of any public body, a public officer, employee or staff member who does not request an open hearing.

26 “(j) To carry on negotiations under ORS chapter 293 with private persons or businesses re-  
27 garding proposed acquisition, exchange or liquidation of public investments.

28 “(k) If the governing body is a health professional regulatory board, to consider information  
29 obtained as part of an investigation of licensee or applicant conduct.

30 “(L) If the governing body is the State Landscape Architect Board, or an advisory committee  
31 to the board, to consider information obtained as part of an investigation of registrant or applicant  
32 conduct.

33 “(m) To discuss information about review or approval of programs relating to the security of any  
34 of the following:

35 “(A) A nuclear-powered thermal power plant or nuclear installation.

36 “(B) Transportation of radioactive material derived from or destined for a nuclear-fueled thermal  
37 power plant or nuclear installation.

38 “(C) Generation, storage or conveyance of:

39 “(i) Electricity;

40 “(ii) Gas in liquefied or gaseous form;

41 “(iii) Hazardous substances as defined in ORS 453.005 (7)(a), (b) and (d);

42 “(iv) Petroleum products;

43 “(v) Sewage; or

44 “(vi) Water.

45 “(D) Telecommunication systems, including cellular, wireless or radio systems.

1 “(E) Data transmissions by whatever means provided.

2 “(3) Labor negotiations shall be conducted in open meetings unless negotiators for both sides  
3 request that negotiations be conducted in executive session. Labor negotiations conducted in exec-  
4 utive session are not subject to the notification requirements of ORS 192.640.

5 “(4) Representatives of the news media shall be allowed to attend executive sessions other than  
6 those held under subsection (2)(d) of this section relating to labor negotiations or executive session  
7 held pursuant to ORS 332.061 (2) but the governing body may require that specified information be  
8 undisclosed.

9 “(5) When a governing body convenes an executive session under subsection (2)(h) of this section  
10 relating to conferring with counsel on current litigation or litigation likely to be filed, the governing  
11 body shall bar any member of the news media from attending the executive session if the member  
12 of the news media is a party to the litigation or is an employee, agent or contractor of a news media  
13 organization that is a party to the litigation.

14 “(6) No executive session may be held for the purpose of taking any final action or making any  
15 final decision.

16 “(7) The exception granted by subsection (2)(a) of this section does not apply to:

17 “(a) The filling of a vacancy in an elective office.

18 “(b) The filling of a vacancy on any public committee, commission or other advisory group.

19 “(c) The consideration of general employment policies.

20 “(d) The employment of the chief executive officer, other public officers, employees and staff  
21 members of a public body unless:

22 “(A) The public body has advertised the vacancy;

23 “(B) The public body has adopted regular hiring procedures;

24 “(C) In the case of an officer, the public has had the opportunity to comment on the employment  
25 of the officer; and

26 “(D) In the case of a chief executive officer, the governing body has adopted hiring standards,  
27 criteria and policy directives in meetings open to the public in which the public has had the op-  
28 portunity to comment on the standards, criteria and policy directives.

29 “(8) A governing body may not use an executive session for purposes of evaluating a chief  
30 executive officer or other officer, employee or staff member to conduct a general evaluation of an  
31 agency goal, objective or operation or any directive to personnel concerning agency goals, objec-  
32 tives, operations or programs.

33 “(9) Notwithstanding subsections (2) and (6) of this section and ORS 192.650:

34 “(a) ORS 676.175 governs the public disclosure of minutes, transcripts or recordings relating to  
35 the substance and disposition of licensee or applicant conduct investigated by a health professional  
36 regulatory board.

37 “(b) ORS 671.338 governs the public disclosure of minutes, transcripts or recordings relating to  
38 the substance and disposition of registrant or applicant conduct investigated by the State Landscape  
39 Architect Board or an advisory committee to the board.”.

40 In line 43, delete “8” and insert “14”.

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