

House Bill 3198

Sponsored by Representative MAURER

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**.

Requires Public Employees' Benefit Board and Oregon Educators Benefit Board to impose health benefit plan premium surcharge on eligible employees and participating family members who smoke or use other tobacco products. Requires filing of affidavit about smoking or use of other tobacco products. Prohibits employer from paying surcharge. Imposes civil penalty for certain violations.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to health benefit plan premium surcharge for participants who use tobacco; and declaring
3 an emergency.

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

5 **SECTION 1. Sections 2 and 3 of this 2009 Act are added to and made a part of ORS 243.105**
6 **to 243.285.**

7 **SECTION 2. (1)(a) The Public Employees' Benefit Board shall adopt by rule a monthly**
8 **surcharge on health benefit plan premiums that shall be imposed on eligible employees and**
9 **participating family members who smoke or use other tobacco products.**

10 (b) The surcharge imposed under this section shall be at least \$25 and may not be more
11 than \$50.

12 (c) No portion of the premium surcharge imposed under this section may be paid by the
13 employer of the eligible employee.

14 (d) Payroll deductions for the premium surcharge imposed under this section shall be
15 made as provided by ORS 243.135.

16 (2)(a) Eligible employees and participating family members shall file with the board
17 within 10 days of initial employment, and annually thereafter during the enrollment period
18 for benefit plans, an affidavit declaring whether the person filing the affidavit smokes or uses
19 other tobacco products.

20 (b) The board shall adopt by rule a form for the affidavit required by this section.

21 (c) The board shall impose the surcharge adopted under this section on each eligible
22 employee or participating family member who fails to file the affidavit required under this
23 section in accordance with the rules adopted by the board.

24 (d) Falsifying the information on the affidavit subjects the person signing the affidavit
25 to the criminal penalties for false swearing provided under ORS 162.075.

26 (3)(a) An eligible employee or participating family member who smokes or uses other
27 tobacco products is exempt from the premium surcharge imposed under this section if the
28 person:

29 (A) Is enrolled in and actively participating in a smoking or tobacco use cessation pro-
30 gram approved by the board; or

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 (B) Has documented completion of a smoking or tobacco use cessation program, regard-
2 less of the person's success in stopping smoking or using other tobacco products.

3 (b) The exemption granted under this subsection is valid only for the year in which the
4 eligible employee or participating family member is enrolled in and actively participating in
5 or has completed a smoking or tobacco use cessation program.

6 SECTION 3. (1) Notwithstanding any other liability or penalty imposed by law, the Public
7 Employees' Benefit Board may impose a civil penalty on a person violating the provisions of
8 section 2 (2) of this 2009 Act.

9 (2) The civil penalty imposed under this section shall be made in accordance with rules
10 adopted by the board, but may not be less than \$1,000 or more than \$2,500.

11 (3) Civil penalties imposed under this section shall be imposed in the manner provided
12 by ORS 183.745.

13 SECTION 4. Sections 5 and 6 of this 2009 Act are added to and made a part of ORS 243.860
14 to 243.886.

15 SECTION 5. (1)(a) The Oregon Educators Benefit Board shall adopt by rule a monthly
16 surcharge on health benefit plan premiums that shall be imposed on eligible employees and
17 participating family members who smoke or use other tobacco products.

18 (b) The surcharge imposed under this section shall be at least \$25 and may not be more
19 than \$50.

20 (c) No portion of the premium surcharge imposed under this section may be paid by the
21 employer of the eligible employee.

22 (d) Payroll deductions for the premium surcharge imposed under this section shall be
23 made as provided by ORS 243.866.

24 (2)(a) Eligible employees and participating family members shall file with the board
25 within 10 days of initial employment, and annually thereafter during the enrollment period
26 for benefit plans, an affidavit declaring whether the person filing the affidavit smokes or uses
27 other tobacco products.

28 (b) The board shall adopt by rule a form for the affidavit required by this section.

29 (c) The board shall impose the surcharge adopted under this section on each eligible
30 employee or participating family member who fails to file the affidavit required under this
31 section in accordance with the rules adopted by the board.

32 (d) Falsifying the information on the affidavit subjects the person signing the affidavit
33 to the criminal penalties for false swearing provided under ORS 162.075.

34 (3)(a) An eligible employee or participating family member who smokes or uses other
35 tobacco products is exempt from the premium surcharge imposed under this section if the
36 person:

37 (A) Is enrolled in and actively participating in a smoking or tobacco use cessation pro-
38 gram approved by the board; or

39 (B) Has documented completion of a smoking or tobacco use cessation program, regard-
40 less of the person's success in stopping smoking or using other tobacco products.

41 (b) The exemption granted under this subsection is valid only for the year in which the
42 eligible employee or participating family member is enrolled in and actively participating in
43 or has completed a smoking or tobacco use cessation program.

44 SECTION 6. (1) Notwithstanding any other liability or penalty imposed by law, the Oregon
45 Educators Benefit Board may impose a civil penalty on a person violating the provisions of

1 section 5 (2) of this 2009 Act.

2 (2) The civil penalty imposed under this section shall be made in accordance with rules
3 adopted by the board, but may not be less than \$1,000 or more than \$2,500.

4 (3) Civil penalties imposed under this section shall be imposed in the manner provided
5 by ORS 183.745.

6 SECTION 7. Sections 1 to 6 of this 2009 Act become operative on October 1, 2009.

7 SECTION 8. The Public Employees' Benefit Board and the Oregon Educators Benefit
8 Board may take any action before the operative date of sections 1 to 6 of this 2009 Act that
9 is necessary to enable the boards to exercise, on and after the operative date of sections 1
10 to 6 of this 2009 Act, all the duties, functions and powers conferred on the boards by sections
11 1 to 6 of this 2009 Act.

12 SECTION 9. This 2009 Act being necessary for the immediate preservation of the public
13 peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect
14 on its passage.

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