

# House Bill 3302

Sponsored by Representatives GARRETT, SCHAUFLEER, BRUUN, BARTON; Representative DEMBROW

## 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**.

Modifies definition of "smoke shop" in Oregon Indoor Clean Air Act to include businesses that are attached to other businesses or residential property. Allows smoking in certain private clubs.

## A BILL FOR AN ACT

1  
2 Relating to smoking; amending ORS 433.835 and 433.850.

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

4 **SECTION 1.** ORS 433.835, as amended by section 1, chapter 602, Oregon Laws 2007, is amended  
5 to read:

6 433.835. As used in ORS 433.835 to 433.875:

7 (1) "Cigar bar" means a business that:

8 (a) Has on-site sales of cigars as defined in ORS 323.500;

9 (b) Has a humidor on the premises;

10 (c) Allows the smoking of cigars on the premises but prohibits the smoking of all other tobacco  
11 products in any form including, but not limited to, loose tobacco, pipe tobacco, cigarettes as defined  
12 in ORS 323.010 and cigarillos as defined by the Department of Human Services by rule;

13 (d) Has been issued and operates under a full on-premises sales license issued under ORS  
14 471.175;

15 (e) Prohibits persons under 21 years of age from entering the premises and posts notice of the  
16 prohibition;

17 (f) Does not offer video lottery games as authorized under ORS 461.217;

18 (g) Has a maximum seating capacity of 40 persons;

19 (h) Has a ventilation system that is certified by the assistant to the State Fire Marshal de-  
20 scribed in ORS 476.060 for the jurisdiction in which the cigar bar is located as adequate to remove  
21 the cigar smoke in the cigar bar and vents the smoke from the cigar bar in a manner that prevents  
22 the smoke from entering any other establishment; and

23 (i) Requires all employees to read and sign a document that explains the dangers of exposure  
24 to secondhand smoke.

25 (2) "Enclosed area" means all space between a floor and a ceiling that is enclosed on three or  
26 more sides by permanent or temporary walls or windows, exclusive of doors or passageways, that  
27 extend from the floor to the ceiling.

28 (3) "Place of employment" means every enclosed area under the control of a public or private  
29 employer that employees frequent during the course of employment, including but not limited to  
30 work areas, employee lounges, vehicles that are operated in the course of an employer's business  
31 that are not operated exclusively by one employee, rest rooms, conference rooms, classrooms, cafe-

**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 terias, hallways, meeting rooms, elevators and stairways. "Place of employment" does not include a  
2 private residence unless it is used as a child care facility as defined in ORS 657A.250 or a facility  
3 providing adult day care as defined in ORS 410.490.

4 (4) "Public place" means any enclosed area open to the public.

5 (5) "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 video lottery games as authorized under ORS 461.217, social gaming or betting  
10 on the premises; **and**

11 (d) Does not sell or offer on-premises consumption of alcoholic beverages[; *and*].

12 [*(e) Is a stand-alone business with no other businesses or residential property attached to the*  
13 *premises.*]

14 (6) "Smoking instrument" means any cigar, cigarette, pipe or other smoking equipment.

15 **SECTION 2.** ORS 433.850, as amended by section 4, chapter 602, Oregon Laws 2007, is amended  
16 to read:

17 433.850. (1) An employer shall provide a place of employment that is free of tobacco smoke for  
18 all employees.

19 (2) Notwithstanding subsection (1) of this section:

20 (a) The owner or person in charge of a hotel or motel may designate up to 25 percent of the  
21 sleeping rooms of the hotel or motel as rooms in which smoking is permitted.

22 (b) Smoking of noncommercial tobacco products for ceremonial purposes is permitted in spaces  
23 designated for traditional ceremonies in accordance with the American Indian Religious Freedom  
24 Act, 42 U.S.C. 1996.

25 (c) Smoking is permitted in a smoke shop.

26 (d) Smoking is permitted in a cigar bar that generated on-site retail sales of cigars of at least  
27 \$5,000 for the calendar year ending December 31, 2006.

28 **(e) Smoking is permitted in a private club, as described in ORS 471.175, that has been**  
29 **issued and operates under a full on-premises sales license as provided in ORS 471.175.**

30 (3) An employer, except in those places described in subsection (2) of this section, shall post  
31 signs that provide notice of the provisions of ORS 433.835 to 433.875.

32