

House Bill 2726

Sponsored by Representative TOMEI, Senator MONNES ANDERSON; Representatives DOHERTY, FREDERICK, HARKER, READ (Pre-session filed.)

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" for purposes of Oregon Indoor Clean Air Act and directs Oregon Health Authority to establish registration system for smoke shops.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to the Oregon Indoor Clean Air Act; creating new provisions; amending ORS 433.835; and
3 declaring an emergency.

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

5 **SECTION 1.** ORS 433.835 is amended 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 Oregon Health Authority 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

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 that are not operated exclusively by one employee, rest rooms, conference rooms, classrooms, cafe-
2 terias, hallways, meeting rooms, elevators and stairways. "Place of employment" does not include a
3 private residence unless it is used as a child care facility as defined in ORS 657A.250 or a facility
4 providing adult day care as defined in ORS 410.490.

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

6 (5) "Smoke shop" means a business that:

7 **(a) Is registered with the authority as a smoke shop pursuant to the rules adopted under**
8 **section 3 of this 2011 Act;**

9 [(a)] **(b) Is primarily engaged in the sale of tobacco products and smoking instruments intended**
10 **for off-premises consumption or use, with at least 75 percent of the gross revenues of the busi-**
11 **ness resulting from such sales;**

12 [(b)] **(c) Prohibits persons under 18 years of age from entering the premises;**

13 [(c)] **(d) Does not offer video lottery games as authorized under ORS 461.217, social gaming or**
14 **betting on the premises;**

15 [(d)] **(e) Does not sell [or], offer or allow on-premises consumption of food or beverages, in-**
16 **cluding alcoholic beverages; [and]**

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

19 **(g) Has a maximum seating capacity of four persons; and**

20 **(h) Allows smoking only for the purpose of sampling tobacco products for making retail**
21 **purchase decisions.**

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

23 **SECTION 2. Section 3 of this 2011 Act is added to and made a part of ORS 433.835 to**
24 **433.875.**

25 **SECTION 3. (1) The Oregon Health Authority shall adopt rules establishing a registration**
26 **system for smoke shops.**

27 **(2) The rules adopted under subsection (1) of this section must provide that, in order to**
28 **obtain a smoke shop registration, a business must agree to allow the authority to make un-**
29 **announced inspections of the business to determine compliance with ORS 433.835 to 433.875.**

30 **SECTION 4. (1) Section 3 of this 2011 Act and the amendments to ORS 433.835 by section**
31 **1 of this 2011 Act become operative on January 1, 2012.**

32 **(2) The Oregon Health Authority may take any action necessary before the operative date**
33 **specified in subsection (1) of this section to enable the authority to exercise, on and after the**
34 **operative date specified in subsection (1) of this section, all the duties, functions and powers**
35 **conferred on the authority by section 3 of this 2011 Act and the amendments to ORS 433.835**
36 **by section 1 of this 2011 Act.**

37 **SECTION 5. This 2011 Act being necessary for the immediate preservation of the public**
38 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
39 **on its passage.**