

House Bill 3014

Sponsored by Representative TOMEI

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**.

Includes electronic cigarettes in application of certain statutes regulating cigarettes and smoking.

A BILL FOR AN ACT

1
2 Relating to electronic cigarettes; amending ORS 163.575, 163.580, 165.800, 165.813, 167.400, 167.401,
3 167.402, 167.404, 167.407, 192.710, 243.345, 243.350, 339.883, 431.840, 431.853, 433.835, 433.840,
4 433.845, 433.850, 441.815, 479.015, 659A.315 and 807.500.

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

6 **SECTION 1.** ORS 431.840 is amended to read:

7 431.840. (1) It *[shall be]* **is** unlawful to do any of the following:

8 (a) To distribute free tobacco products **or electronic cigarettes** to persons under 18 years of
9 age as part of a marketing strategy to encourage the use of tobacco products **or electronic ciga-**
10 **rettes**.

11 (b) To fail as a retailer to post a notice substantially similar to that set forth in subsection (3)
12 of this section in a location clearly visible to the seller and the purchaser that sale of tobacco
13 products **or electronic cigarettes** to persons under 18 years of age is prohibited.

14 (c) To sell cigarettes **or electronic cigarettes** in any form other than a sealed package.

15 (2) As used in this section:

16 (a) **“Electronic cigarette” means a device that is intended to deliver vaporized nicotine**
17 **or other solutions into the human body by inhalation.**

18 (b) **“Tobacco products” means bidis, cigars, cheroots, stogies, periques, granulated, plug cut,**
19 **crimp cut, ready rubbed and other smoking tobacco, snuff, snuff flour, cavendish, plug and twist to-**
20 **bacco, fine-cut and other chewing tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings**
21 **of tobacco and other kinds and forms of tobacco, prepared in such manner as to be suitable for**
22 **chewing or smoking in a pipe or otherwise, or both for chewing and smoking, and *[shall include]***
23 **includes** cigarettes as defined in ORS 323.010 (1).

24 (3) The notice *[shall]* **must** be substantially as follows:
25
26

NOTICE

27
28 The sale of tobacco in any form **or electronic cigarettes** to persons under 18 years of age is
29 prohibited by law. Any person who knowingly sells, or causes to be sold, tobacco **or electronic**
30 **cigarettes** to a person under 18 years of age commits the crime of endangering the welfare of a
31 minor, pursuant to ORS 163.575.

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.

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SECTION 2. ORS 163.575 is amended to read:

163.575. (1) A person commits the crime of endangering the welfare of a minor if the person knowingly:

(a) Induces, causes or permits an unmarried person under 18 years of age to witness an act of sexual conduct or sadomasochistic abuse as defined by ORS 167.060; [or]

(b) Permits a person under 18 years of age to enter or remain in a place where unlawful activity involving controlled substances is maintained or conducted; [or]

(c) Induces, causes or permits a person under 18 years of age to participate in gambling as defined by ORS 167.117; [or]

(d) Distributes, sells[,] or causes to be sold, tobacco in any form to a person under 18 years of age; [or]

(e) Distributes, sells or causes to be sold, electronic cigarettes, as defined in ORS 431.840, to a person under 18 years of age; or

[(e)] **(f)** Sells to a person under 18 years of age any device in which tobacco, marijuana, cocaine or any controlled substance, as defined in ORS 475.005, is burned and the principal design and use of which is directly or indirectly to deliver tobacco smoke, marijuana smoke, cocaine smoke or smoke from any controlled substance into the human body including but not limited to:

(A) Pipes, water pipes, hookahs, wooden pipes, carburetor pipes, electric pipes, air driven pipes, corncob pipes, meerschaum pipes and ceramic pipes, with or without screens, permanent screens, hashish heads or punctured metal bowls;

(B) Carburetion tubes and devices, including carburetion masks;

(C) Bongos;

(D) Chillums;

(E) Ice pipes or chillers;

(F) Cigarette rolling papers and rolling machines; and

(G) Cocaine free basing kits.

(2) Endangering the welfare of a minor by violation of subsection (1)(a), (b), (c) or [(e)] **(f)** of this section, involving other than a device for smoking tobacco, is a Class A misdemeanor.

(3) Endangering the welfare of a minor by violation of subsection (1)(d) **or (e)** of this section or by violation of subsection [(1)(e)] **(1)(f)** of this section, involving a device for smoking tobacco, is a Class A violation and the court shall impose a fine of not less than \$100.

SECTION 3. ORS 163.580 is amended to read:

163.580. (1) Any person who sells any of the smoking devices listed in ORS 163.575 (1)(e) **or (f)** shall display a sign clearly stating that the sale of such devices to persons under 18 years of age is prohibited by law.

(2) Any person who violates this section commits a Class B violation.

SECTION 4. ORS 165.800 is amended to read:

165.800. (1) A person commits the crime of identity theft if the person, with the intent to deceive or to defraud, obtains, possesses, transfers, creates, utters or converts to the person's own use the personal identification of another person.

(2) Identity theft is a Class C felony.

(3) It is an affirmative defense to violating subsection (1) of this section that the person charged with the offense:

1 (a) Was under 21 years of age at the time of committing the offense and the person used the
2 personal identification of another person solely for the purpose of purchasing alcohol;

3 (b) Was under 18 years of age at the time of committing the offense and the person used the
4 personal identification of another person solely for the purpose of purchasing tobacco products **or**
5 **electronic cigarettes**; or

6 (c) Used the personal identification of another person solely for the purpose of misrepresenting
7 the person's age to gain access to a:

8 (A) Place the access to which is restricted based on age; or

9 (B) Benefit based on age.

10 (4) As used in this section:

11 (a) "Another person" means a real person, whether living or deceased, or an imaginary person.

12 **(b) "Electronic cigarette" has the meaning given that term in ORS 431.840.**

13 *[(b)]* (c) "Personal identification" includes, but is not limited to, any written document or elec-
14 tronic data that does, or purports to, provide information concerning:

15 (A) A person's name, address or telephone number;

16 (B) A person's driving privileges;

17 (C) A person's Social Security number or tax identification number;

18 (D) A person's citizenship status or alien identification number;

19 (E) A person's employment status, employer or place of employment;

20 (F) The identification number assigned to a person by a person's employer;

21 (G) The maiden name of a person or a person's mother;

22 (H) The identifying number of a person's depository account at a "financial institution" or "trust
23 company," as those terms are defined in ORS 706.008, or a credit card account;

24 (I) A person's signature or a copy of a person's signature;

25 (J) A person's electronic mail name, electronic mail signature, electronic mail address or elec-
26 tronic mail account;

27 (K) A person's photograph;

28 (L) A person's date of birth; and

29 (M) A person's personal identification number.

30 **SECTION 5.** ORS 165.813 is amended to read:

31 165.813. (1) A person commits the crime of unlawful possession of fictitious identification if the
32 person possesses a personal identification card containing identification information for a fictitious
33 person with the intent to use the personal identification card to commit a crime.

34 (2) Unlawful possession of fictitious identification is a Class C felony.

35 (3) It is an affirmative defense to violating subsection (1) of this section that the person charged
36 with the offense:

37 (a) Was under 21 years of age at the time of committing the offense and the person possessed
38 the personal identification card solely for the purpose of enabling the person to purchase alcohol;
39 or

40 (b) Was under 18 years of age at the time of committing the offense and the person possessed
41 the personal identification card solely for the purpose of enabling the person to purchase tobacco
42 products **or electronic cigarettes, as defined in ORS 431.840.**

43 **SECTION 6.** ORS 167.400 is amended to read:

44 167.400. (1) *[It is unlawful for any]* **A** person under 18 years of age *[to]* **may not** possess:

45 **(a)** Tobacco products, as defined in ORS 431.840.

(b) Electronic cigarettes, as defined in ORS 431.840.

(2) Any person who violates subsection (1) of this section commits a Class D violation.

SECTION 7. ORS 167.401 is amended to read:

167.401. (1) **As used in this section:**

(a) “Electronic cigarette” has the meaning given that term in ORS 431.840.

(b) “Tobacco products” has the meaning given that term in ORS 431.840.

[(1)] (2) Except as provided in subsection [(4)] (5) of this section, [no] a person under 18 years of age [shall] **may not** purchase, attempt to purchase or acquire tobacco products [as defined in ORS 431.840] **or electronic cigarettes**. Except when such minor is in a private residence accompanied by the parent or guardian of the minor and with the consent of such parent or guardian, [no] a person under 18 years of age [shall] **may not** have personal possession of tobacco products **or electronic cigarettes**.

[(2)] (3) Any person who violates subsection [(1)] (2) of this section commits a violation.

[(3)(a)] (4)(a) In lieu of any other penalty established by law, a person who is convicted for the first time of a violation of subsection [(1)] (2) of this section may be ordered to participate in [a tobacco] **an** education program or a [tobacco] use cessation program **for tobacco or electronic cigarettes** or to perform community service related to diseases associated with consumption of tobacco products **or electronic cigarettes**. A person may be ordered to participate in such a program only once.

(b) In addition to and not in lieu of any other penalty established by law, a person who is convicted of a second violation of subsection [(1)] (2) of this section through misrepresentation of age may be required to participate in [a tobacco] **an** education **program** or a [tobacco] use cessation program **for tobacco or electronic cigarettes** or to perform community service related to diseases associated with the consumption of tobacco products **or electronic cigarettes**, and the court shall order that the person’s driving privileges and right to apply for driving privileges be suspended for a period not to exceed one year. If a court has issued an order denying driving privileges under this subsection, the court, upon petition of the person, may withdraw the order at any time the court deems appropriate. The court notification to the Department of Transportation under this subsection may include a recommendation that the person be granted a hardship permit under ORS 807.240 if the person is otherwise eligible for the permit.

[(4)] (5) A minor acting under the supervision of an adult may purchase, attempt to purchase or acquire tobacco products **or electronic cigarettes** for the purpose of testing compliance with a federal law, state statute, local law or retailer management policy limiting or regulating the delivery of tobacco products **or electronic cigarettes** to minors.

SECTION 8. ORS 167.402 is amended to read:

167.402. (1) **As used in this section[,]:**

(a) “Electronic cigarette” has the meaning given that term in ORS 431.840.

(b) “Tobacco products” has the meaning given that term in ORS 431.840.

(c) “Vending machine” means a mechanical, electronic or similar device that, upon the insertion of tokens, money or another form of payment, dispenses tobacco products **or electronic cigarettes.**

(2) A person may not sell or dispense tobacco products[, as defined in ORS 431.840,] **or electronic cigarettes** from a vending machine, except in an establishment where the premises are posted as permanently and entirely off-limits to minors under rules adopted by the Oregon Liquor Control Commission.

1 (3) Violation of subsection (2) of this section is a Class B violation. Each day of violation con-
 2 stitutes a separate offense.

3 **SECTION 9.** ORS 167.404 is amended to read:

4 167.404. Cities and counties **may not**, by ordinance or resolution [*shall not*], regulate vending
 5 machines that dispense tobacco products, as defined in ORS 431.840, [*in any form*] **or electronic**
 6 **cigarettes, as defined in ORS 431.840**, and that are in any manner accessible to minors.

7 **SECTION 10.** ORS 167.407 is amended to read:

8 167.407. (1) **As used in this section, “electronic cigarette” has the meaning given that**
 9 **term in ORS 431.840.**

10 [(1)] (2) A person having authority over the location of cigarettes, [*and*] other tobacco products
 11 **or electronic cigarettes** in a retail store may not locate cigarettes [*or*], other tobacco products
 12 **or electronic cigarettes** in a location in the store where the cigarettes [*or*], other tobacco products
 13 **or electronic cigarettes** are accessible by store customers without assistance by a store employee.

14 [(2)] (3) Violation of subsection [(1)] (2) of this section is a Class B violation. Each day of vio-
 15 lation constitutes a separate offense.

16 [(3)] (4) Subsections [(1) *and*] (2) **and (3)** of this section do not apply if the location at which the
 17 cigarettes [*or*], tobacco products **or electronic cigarettes** are sold is a store or other establishment
 18 at which persons under 18 years of age are prohibited.

19 **SECTION 11.** ORS 192.710 is amended to read:

20 192.710. (1) [*No*] **A person [shall] may not** smoke or carry any lighted smoking instrument **or**
 21 **use an electronic cigarette** in a room where a public meeting is being held or is to continue after
 22 a recess. For purposes of this subsection, a public meeting is being held from the time the agenda
 23 or meeting notice indicates the meeting is to commence regardless of the time it actually com-
 24 mences.

25 (2) As used in this section:

26 (a) **“Electronic cigarette” has the meaning given that term in ORS 431.840.**

27 [(a)] (b) “Public meeting” means any regular or special public meeting or hearing of a public
 28 body to exercise or advise in the exercise of any power of government in buildings or rooms rented,
 29 leased or owned by the State of Oregon or by any county, city or other political subdivision in the
 30 state regardless of whether a quorum is present or is required.

31 [(b)] (c) “Public body” means the state or any department, agency, board or commission of the
 32 state or any county, city or other political subdivision in the state.

33 [(c)] (d) “Smoking instrument” means any cigar, cigarette, pipe or other smoking equipment.

34 **SECTION 12.** ORS 243.345 is amended to read:

35 243.345. The Legislative Assembly finds that because the smoking of tobacco **and the use of**
 36 **electronic cigarettes create** [*creates*] a health hazard, it is necessary to protect the public health
 37 by restricting smoking **and the use of electronic cigarettes** in places of employment operated by
 38 the State of Oregon.

39 **SECTION 13.** ORS 243.350 is amended to read:

40 243.350. (1) **As used in this section, “electronic cigarette” has the meaning given that**
 41 **term in ORS 431.840.**

42 [(1)] (2) In accordance with the provisions of ORS chapter 183, the Personnel Division shall
 43 adopt rules restricting smoking **and the use of electronic cigarette** in places of employment op-
 44 erated by departments or agencies of the State of Oregon. The rules of the division shall:

45 (a) Set standards for the designation of areas in a place of employment where smoking **and the**

1 **use of electronic cigarettes are** [is] permitted, including standards for ventilation and physical
 2 barriers.

3 (b) Require departments or agencies to designate areas in the place of employment where
 4 smoking **and the use of electronic cigarettes are** [is] permitted pursuant to the standards of the
 5 division.

6 (c) Require departments or agencies supplying employees with lounges to provide [smoke-free]
 7 lounge areas for nonsmoking employees **that are free of smoke and the use of electronic ciga-**
 8 **rettes.**

9 (d) Prohibit smoking **and the use of electronic cigarettes** in a place of employment in any area
 10 not designated as an area where smoking is permitted.

11 [(2)] (3) The rules adopted by the division pursuant to subsection [(1)] (2) of this section shall
 12 not apply to enclosed offices occupied exclusively by smokers **or users of electronic cigarettes,**
 13 even though the offices may be visited by nonsmokers.

14 [(3)] (4) [Nothing in] This section [is intended to] **does not** prevent departments or agencies from
 15 prohibiting smoking **or the use of electronic cigarettes** in the entire area of the place of employ-
 16 ment.

17 **SECTION 14.** ORS 339.883 is amended to read:

18 339.883. (1) **As used in this section:**

19 (a) **“Electronic cigarette” has the meaning given that term in ORS 431.840.**

20 (b) **“Facility” means public or private schools, youth correction facilities or juvenile de-**
 21 **tention facilities. “Facility” does not include colleges or universities, career and technical**
 22 **education schools or community colleges.**

23 (c) **“Tobacco products” has the meaning given that term in ORS 431.840.**

24 [(1)] (2) A facility shall not permit any person under 18 years of age to possess tobacco
 25 products[, as defined in ORS 431.840,] **or electronic cigarettes** while the person is present on fa-
 26 cility grounds or in facility buildings or attending facility-sponsored activities.

27 [(2)] (3) The facility must have written policies prohibiting the possession of tobacco products
 28 [described in subsection (1) of this section] **and electronic cigarettes** by persons under 18 years of
 29 age. The facility must have written plans to implement such policies.

30 [(3)] (4) This section does not apply to any person for whom a tobacco or nicotine product has
 31 been lawfully prescribed.

32 [(4) As used in this section, “facility” means public or private schools, youth correction facilities
 33 or juvenile detention facilities. “Facility” does not include colleges or universities, career and technical
 34 education schools or community colleges.]

35 **SECTION 15.** ORS 431.853 is amended to read:

36 431.853. (1) The Oregon Health Authority shall:

37 (a) Coordinate with law enforcement agencies to conduct random, unannounced inspections of
 38 Oregon wholesalers and retailers of tobacco products **and electronic cigarettes** to [insure] **ensure**
 39 compliance with Oregon laws designed to discourage the use of tobacco **and electronic cigarettes**
 40 by minors including ORS 163.575, 163.580, 167.400, 167.402 and 431.840; and

41 (b) Submit a report describing:

42 (A) The activities carried out to enforce the laws listed in paragraph (a) of this subsection
 43 during the previous fiscal year;

44 (B) The extent of success achieved in reducing the availability of tobacco products **and elec-**
 45 **tronic cigarettes** to minors; and

1 (C) The strategies to be utilized for enforcing the laws listed in paragraph (a) of this subsection
 2 during the year following the report.

3 (2) The Oregon Health Authority shall adopt rules concerning random inspections of places that
 4 sell tobacco products consistent with section 1921, Public Law 102-321, 1992, **and rules concerning**
 5 **random inspections of places that sell electronic cigarettes**. The rules shall provide that in-
 6 spections may take place:

7 (a) Only in areas open to the public;

8 (b) Only during hours that tobacco products **or electronic cigarettes** are sold or distributed;
 9 and

10 (c) No more frequently than once a month in any single establishment unless a compliance
 11 problem exists or is suspected.

12 **SECTION 16.** ORS 433.835 is amended to read:

13 433.835. As used in ORS 433.835 to 433.875:

14 (1) “Cigar bar” means a business that:

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

16 (b) Has a humidor on the premises;

17 (c) Allows the smoking of cigars on the premises but prohibits **the use of electronic cigarettes**
 18 **and** the smoking of all other tobacco products in any form including, but not limited to, loose to-
 19 bacco, pipe tobacco, cigarettes as defined in ORS 323.010 and cigarillos as defined by the Oregon
 20 Health Authority by rule;

21 (d) Has been issued and operates under a full on-premises sales license issued under ORS
 22 471.175;

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

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

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

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

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

33 **(2) “Electronic cigarette” has the meaning given that term in ORS 431.840.**

34 [(2)] **(3)** “Enclosed area” means all space between a floor and a ceiling that is enclosed on three
 35 or more sides by permanent or temporary walls or windows, exclusive of doors or passageways, that
 36 extend from the floor to the ceiling.

37 [(3)] **(4)** “Place of employment” means every enclosed area under the control of a public or pri-
 38 vate employer that employees frequent during the course of employment, including but not limited
 39 to work areas, employee lounges, vehicles that are operated in the course of an employer’s business
 40 that are not operated exclusively by one employee, rest rooms, conference rooms, classrooms, cafe-
 41 terias, hallways, meeting rooms, elevators and stairways. “Place of employment” does not include a
 42 private residence unless it is used as a child care facility as defined in ORS 657A.250 or a facility
 43 providing adult day care as defined in ORS 410.490.

44 [(4)] **(5)** “Public place” means any enclosed area open to the public.

45 [(5)] **(6)** “Smoke shop” means a business that:

1 (a) Is primarily engaged in the sale of tobacco products and smoking instruments, with at least
2 75 percent of the gross revenues of the business resulting from such sales;

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

4 (c) Does not offer video lottery games as authorized under ORS 461.217, social gaming or betting
5 on the premises;

6 (d) Does not sell or offer on-premises consumption of alcoholic beverages; and

7 (e) Is a stand-alone business with no other businesses or residential property attached to the
8 premises.

9 [(6)] (7) "Smoking instrument" means any cigar, cigarette, pipe or other smoking equipment.

10 **SECTION 17.** ORS 433.840 is amended to read:

11 433.840. The people of Oregon find that [*because*] exposure to secondhand smoke is known to
12 cause cancer and other chronic diseases such as heart disease, asthma and bronchitis[.]. It is nec-
13 essary to reduce exposure to tobacco smoke **and electronic cigarettes** by prohibiting smoking **and**
14 **the use of electronic cigarettes** in all public places and places of employment.

15 **SECTION 18.** ORS 433.845 is amended to read:

16 433.845. (1) A person may not smoke or carry any lighted smoking instrument **or use an elec-**
17 **tronic cigarette** in a public place or place of employment except in areas designated as smoking
18 areas pursuant to ORS 433.850.

19 (2) A person may not smoke or carry any lighted smoking instrument **or use an electronic**
20 **cigarette** within 10 feet of the following parts of public places or places of employment:

21 (a) Entrances;

22 (b) Exits;

23 (c) Windows that open; and

24 (d) Ventilation intakes that serve an enclosed area.

25 (3) A person may not smoke or carry any lighted smoking instrument **or use an electronic**
26 **cigarette** in a room during the time that jurors are required to use the room.

27 **SECTION 19.** ORS 441.815 is amended to read:

28 441.815. (1) As used in this section[.]:

29 (a) "**Electronic cigarette**" has the meaning given that term in ORS 431.840.

30 (b) "Hospital" has the meaning given the term in ORS 442.015.

31 (2) The administrator or person in charge of a hospital may not permit a person to smoke to-
32 bacco **or use an electronic cigarette**:

33 (a) In the hospital; or

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

35 (3) The Director of the Oregon Health Authority may impose a civil penalty of not more than
36 \$500 per day on a person for violation of subsection (2) of this section. Civil penalties imposed
37 against a person under this subsection may not exceed \$2,000 in any 30-day period. Civil penalties
38 imposed under this subsection shall be imposed in the manner provided by ORS 183.745.

39 (4) The Oregon Health Authority may adopt rules necessary for the administration of this sec-
40 tion.

41 **SECTION 20.** ORS 433.850 is amended to read:

42 433.850. (1) An employer shall provide a place of employment that is free of tobacco smoke **and**
43 **electronic cigarette use** for all employees.

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

45 (a) The owner or person in charge of a hotel or motel may designate up to 25 percent of the

1 sleeping rooms of the hotel or motel as rooms in which smoking **and the use of electronic ciga-**
 2 **rettes are** [is] permitted.

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

6 (c) Smoking **and the use of electronic cigarettes are** [is] permitted in a smoke shop.

7 (d) Smoking is permitted in a cigar bar that generated on-site retail sales of cigars of at least
 8 \$5,000 for the calendar year ending December 31, 2006.

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

11 **SECTION 21.** ORS 479.015 is amended to read:

12 479.015. (1) It [shall be] **is** unlawful for any person to smoke cigars, cigarettes or tobacco in any
 13 form [or], to ignite any substance **or to use an electronic cigarette** in an elevator used by the
 14 public.

15 (2) A “No Smoking” sign shall be posted and maintained in a conspicuous place on or within
 16 any elevator operated in accordance with subsection (1) of this section, pursuant to rules of the
 17 State Fire Marshal.

18 (3) Any person who violates subsection (1) of this section shall incur a penalty of \$10 for each
 19 such violation.

20 (4) Any person who violates subsection (2) of this section commits a Class D violation.

21 **SECTION 22.** ORS 807.500 is amended to read:

22 807.500. (1) A person commits the offense of unlawful production of identification cards, licenses,
 23 permits, forms or camera cards if the person, without the authority of the Department of Transpor-
 24 tation, advertises for the production of, produces in any way or causes to be produced any facsimiles
 25 of the identification cards, licenses, permits, forms or camera cards upon which the department is-
 26 sues identification cards, licenses or driver permits under the vehicle code.

27 (2) The offense described in this section, unlawful production of identification cards, licenses,
 28 permits, forms or camera cards, is a Class C felony.

29 (3) It is an affirmative defense to violating subsection (1) of this section that the person charged
 30 with the offense:

31 (a) Was under 21 years of age at the time of committing the offense and the person produced
 32 an identification card, license or permit solely for the purpose of enabling the person to purchase
 33 alcohol; or

34 (b) Was under 18 years of age at the time of committing the offense and the person produced
 35 an identification card, license or permit solely for the purpose of enabling the person to purchase
 36 tobacco products **or electronic cigarettes, as defined in ORS 431.840.**

37 **SECTION 23.** ORS 659A.315 is amended to read:

38 659A.315. (1) It is an unlawful employment practice for any employer to require, as a condition
 39 of employment, that any employee or prospective employee refrain from using lawful tobacco pro-
 40 ducts **or electronic cigarettes** during nonworking hours, except when the restriction relates to a
 41 bona fide occupational requirement.

42 (2) Subsection (1) of this section does not apply if an applicable collective bargaining agreement
 43 prohibits off-duty use of tobacco products **or electronic cigarettes.**