

Chair Holvey and members of the committee:

I am here to help rectify what I believe is an "unintended consequence". After the Indoor Clean Air Act was passed there was a lot of discussion and eventually legislation concerning cigar shops and cigar bars.

Back in the 2007 when SB 571 was being worked on in committee Senator Floyd Prozanski brought this up concerning cigar shops: (READ FROM WORK SESSION)

Later in the 2011 session there were a couple of different bills that dealt with the issue of cigar shops that met certain criteria and would be "grandfathered" in as "exempted smoke shops". There were 8 at the time and to the best of my knowledge there are 3 now.

In the negotiations over this exemption, the idea of food and beverage came up. One of the lines from HB 2726 had this in it: Prohibits food or beverage on site.

I was concerned then and in an email to then Rep. Mike Shauffler I wrote about that concern:

HB 2726-B (June 2011)

-The bill also prohibits the consumption of any food or beverages, including water, anywhere in the business! This would prevent employees from eating their lunches at work, or even having a cup of coffee or a drink of water **while at work. It is anti-labor and anti-business all at the same time, and a violation of employees' personal liberties.**

The bill passed, that language stayed in and it seemed all was well though I always wondered about that one part.

In 2013 my son began working at Avva Cigars and wine in salem. He called me one day at lunch time and said "dad, I can't eat my lunch at work". I then realized that my fears from 2011 were real.

Not only could customers not bring in coffee or water or a soda, but the employees, by statute, were not allowed to eat or drink in the store. Here is the final Oregon Administrative Rules concerning smoke shops: (attached)

What I am asking with House Bill 2969 is that the one line about food and beverage be taken out.

This is not a smoking issue, as the smoking is allowed in the exempted shops, it's more of business and worker's rights issue. NO business in Oregon is told they can't have food or beverages on site by the State of Oregon. A business can choose to do that, but not by force of the state.

I am asking for a fair playing field for employees and customers at certified, exempted cigar shops, again of which I believe there are only 3.

Thank you!

Alternative Smoke Shop Certification Requirements for Businesses Existing on December 31, 2008

[OAR 333-015-0068(5)(b)]

To qualify for this type of smoke shop certification, a smoke shop must, on December 31, 2008, and presently, have met/meet the following requirements:

- Be primarily engaged in the sale of tobacco products and smoking instruments intended for off-premises consumption or use, with at least 75 percent of the gross revenues of the business resulting from such sales.
- Prohibit persons under 18 years of age from entering the premises.
- Not offer video lottery games as authorized under ORS 461.217, social gaming or betting on the premises.
- Not sell, offer or allow on-premises consumption of food or beverages, including alcoholic beverages.
- Either:
- Be a stand-alone business with no other businesses or residential property attached; or

Have a ventilation system that exhausted/exhausts smoke from the business and was/is designed and terminated in accordance with the state building code standards for the occupancy classification in use.

To maintain certification under the alternative smoke shop certification requirements for businesses existing on December 31, 2008 a certified smoke shop must comply with these ongoing obligations:

- Continuously meet the criteria under which the smoke shop was certified. The Oregon Health Authority (OHA) may revoke certification if the smoke shop ceases to meet the certification criteria.
- Allow OHA to make unannounced inspections of the business to determine compliance with the ICAA.
- Submit a completed [Annual Financial Documentation Form](#) every year, within 30 days of the calendar date on which certification was originally granted, to demonstrate that at least 75 percent of the smoke shop's gross revenue is derived from the sale of tobacco products or smoking instruments intended for off-premises consumption or use.
- The spreadsheet must include the total revenue from cigarette sales if the smoke shop permits cigarette smoking on the premises.
- Post signs at each entrance and exit clearly stating that smoking is allowed on all or part of the premises, anyone under the age of 18 is

prohibited from entering the premises, and, in smoke shops not authorized by OHA to permit cigarette smoking, cigarette smoking is prohibited on the premises.

- Prohibit cigarette smoking on the premises unless at least 75 percent of its gross revenue, as reflected in financial documentation submitted to OHA, is derived from the sale of cigarettes.
- Prohibit smoking, ashtrays, and outside smoking areas within 10 feet of entrances, exits, windows that open, ventilation intakes, and accessibility ramps leading to and from an entrance or exit. Outdoor seating and dining areas within 10 feet must be clearly marked as non-smoking.
- Maintain up-to-date contact information with OHA. If OHA is unable to contact a smoke shop because the smoke shop's contact information on file is out of date, then the smoke shop's certification may be suspended until up-to-date contact information is provided. Use the [Contact Information Update Form](#) to submit updates.
- Renew its certification every five years from the date of original certification, pursuant to OAR 333-015-0068(8).

To transfer certification or change locations, refer to the procedures in OAR 333-015-0068(9) and (10). Use the [Smoke Shop B Application for Transfer of Smoke Shop Certification with Ownership](#) to transfer certification to a new owner of the smoke shop.