

A-Engrossed
Senate Bill 190

Ordered by the Senate April 24
Including Senate Amendments dated April 24

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Attorney General Ellen F. Rosenblum)

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.

Prohibits person from shipping or transporting or causing to be shipped or transported cigarettes[, *electronic cigarettes*] or smokeless tobacco products unless person is licensed distributor or retailer. **Creates exception.**

Prohibits retailer from selling those products unless retailer makes sale to purchaser in person as part of face-to-face exchange.

Authorizes Attorney General to bring civil action against person that violates Act and to seek injunction of actual or threatened violation of Act.

A BILL FOR AN ACT

1
2 Relating to nicotine.

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

4 **SECTION 1. As used in sections 1 to 4 of this 2015 Act:**

5 (1) **"Cigarette" has the meaning given that term in ORS 323.800.**

6 (2) **"Distributor" means a person that is licensed under ORS 323.105 or 323.530 or any**
7 **other person that is a distributor for purposes of ORS 323.005 to 323.482 or 323.500 to 323.645.**

8 (3) **"Retailer" means a person that sells cigarettes or smokeless tobacco products to in-**
9 **dividuals for personal consumption.**

10 (4) **"Smokeless tobacco product" has the meaning given that term in ORS 323.810.**

11 **SECTION 2. (1)(a) A person engaged in the business of selling cigarettes or smokeless**
12 **tobacco products, for profit, may not ship or transport, or cause to be shipped or trans-**
13 **ported, a cigarette or smokeless tobacco product, ordered or purchased by mail or telephone**
14 **or through a computer or other electronic network, to any person in this state other than**
15 **a distributor or retailer.**

16 (b) **Paragraph (a) of this subsection does not apply to a freight forwarder or motor car-**
17 **rier, both as defined in 49 U.S.C. 13102, as in effect on the effective date of this 2015 Act,**
18 **or an air carrier, as defined in 49 U.S.C. 40102, as in effect on the effective date of this 2015**
19 **Act.**

20 (2) **A retailer may not sell a cigarette or smokeless tobacco product unless the retailer**
21 **or an employee of the retailer makes the sale to the purchaser in person as part of a face-**
22 **to-face exchange.**

23 (3) **A person may not knowingly provide substantial assistance to a person that is vio-**
24 **lating subsection (1) or (2) of this section.**

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 **SECTION 3.** (1) The Attorney General may bring a civil action in the name of the State
2 of Oregon against a person that violates section 2 of this 2015 Act or for the purpose of
3 seeking an injunction to restrain an actual or threatened violation of section 2 of this 2015
4 Act and compel obedience with section 2 of this 2015 Act.

5 (2) The Attorney General may bring an action under this section in the Circuit Court for
6 Marion County or a circuit court in any county in which part of the conduct constituting the
7 grounds for the action took place.

8 (3) If a court determines that a person violated section 2 of this 2015 Act, the court shall
9 order the disgorgement of any profits, gain, gross receipts or other benefit resulting from
10 the violation. All moneys disgorged under this subsection must be deposited in the Tobacco
11 Enforcement Fund established under ORS 180.205.

12 (4)(a) In an action brought under this section, the state may recover the costs of inves-
13 tigation, the costs of the action, reasonable attorney fees and a civil penalty of up to \$5,000
14 for each violation. A civil penalty imposed under this section must be imposed in the manner
15 provided by ORS 183.745.

16 (b) For purposes of this subsection, each shipment or transport of a cigarette or
17 smokeless tobacco product constitutes a separate violation.

18 (5) Unless expressly provided otherwise, the remedies or penalties under this section are
19 cumulative to each other and to the remedies available under any other law of this state.

20 **SECTION 4.** (1) If it appears to the Attorney General that a person, including a person
21 described in section 2 (1)(b) of this 2015 Act, has possession, custody or control of any in-
22 formation, document or other material that is relevant to an investigation of a violation of
23 section 2 of this 2015 Act, or that could lead to the discovery of relevant information in an
24 investigation of a violation of section 2 of this 2015 Act, the Attorney General may execute
25 an investigative demand and cause the investigative demand to be served upon the person.
26 The investigative demand may require the person:

27 (a) To appear and testify under oath at a time and place stated in the investigative de-
28 mand;

29 (b) To answer written interrogatories; or

30 (c) To produce relevant documents or other materials or physical evidence for examina-
31 tion at a time and place stated in the investigative demand.

32 (2) An investigative demand under this section shall be served in the manner provided
33 by ORS 646.622 and may be enforced in the manner provided by ORS 646.626.

34