

Senate Bill 190

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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**.

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.

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) **"Electronic cigarette" means:**

9 (a) **A device, other than a cigarette or cigar, the purpose of which is to deliver vapors**
10 **containing nicotine into a person's respiratory system; or**

11 (b) **A component of, or substance to be vaporized by, a device described in this sub-**
12 **section.**

13 (4) **"Retailer" means a person that sells cigarettes, electronic cigarettes or smokeless**
14 **tobacco products to individuals for personal consumption.**

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

16 **SECTION 2. (1) A person may not ship or transport, or cause to be shipped or trans-**
17 **ported, a cigarette, electronic cigarette or smokeless tobacco product to anyone in this state**
18 **unless the person is a distributor or retailer.**

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

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

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

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

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

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

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

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

16 SECTION 4. (1) If it appears to the Attorney General that a person has possession, cus-
17 tody or control of any information, document or other material that is relevant to an in-
18 vestigation of a violation of section 2 of this 2015 Act, or that could lead to the discovery of
19 relevant information in an investigation of a violation of section 2 of this 2015 Act, the At-
20 torney General may execute an investigative demand and cause the investigative demand to
21 be served upon the person. The investigative demand may require the person:

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

24 (b) To answer written interrogatories; or

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

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

29