

**PROPOSED AMENDMENTS TO  
HOUSE BILL 2546**

1 On page 7 of the printed bill, after line 7, insert:

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3

**“(Effective on Passage)”**

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5 On page 8, line 4, delete “with” and insert “by”.

6 After line 7, insert:

7 “(7) ‘Vapor industry event’ means any conference, convention or other  
8 gathering of manufacturers, wholesalers, retailers or users of inhalant de-  
9 livery systems, as defined in ORS 431.840.

10 “(8) ‘Vapor shop’ means a business that is primarily engaged in the sale,  
11 for off-premises consumption or use, of inhalant delivery systems, as defined  
12 in ORS 431.840, provided that the business:

13 “(a) Allows the aerosolizing or vaporizing of inhalant samples only for the  
14 purpose of making retail purchase decisions;

15 “(b) Does not allow the aerosolizing or vaporizing of inhalant samples  
16 that contain cannabinoids; and

17 “(c) Prohibits persons under 18 years of age from aerosolizing or  
18 vaporizing inhalant samples.”.

19 On page 10, after line 29, insert:

20 “(e) The aerosolizing or vaporizing of inhalants that are not cannabinoids  
21 is permitted in a vapor shop or at a vapor industry event.”.

22 In line 30, delete “(e)” and insert “(f)”.

1 On page 11, after line 29, insert:

2  
3 **“(Operative January 1, 2020)”**

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5 **“SECTION 22.** ORS 433.835, as amended by section 14 of this 2015 Act,  
6 is amended to read:

7 “433.835. As used in ORS 433.835 to 433.875:

8 “(1) ‘Cigar bar’ means a business that:

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

10 “(b) Has a humidor on the premises;

11 “(c) Allows the smoking of cigars on the premises but prohibits the  
12 smoking[, *aerosolizing or vaporizing*] of other inhalants on the premises;

13 “(d) Has been issued and operates under a full on-premises sales license  
14 issued under ORS 471.175;

15 “(e) Prohibits persons under 21 years of age from entering the premises  
16 and posts notice of the 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 exhausts smoke from the business and  
20 is designed and terminated in accordance with the state building code stan-  
21 dards for the occupancy classification in use; and

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

24 “(2) ‘Inhalant’ means nicotine, a cannabinoid or any other substance that:

25 **“(a) Is smoked;**

26 “[*(a)*] **(b)** Is in a form that allows the nicotine, cannabinoid or substance  
27 to be delivered into a person’s respiratory system;

28 “[*(b)*] **(c)** Is inhaled for the purpose of delivering the nicotine,  
29 cannabinoid or other substance into a person’s respiratory system; and

30 “[*(c)(A)*] **(d)(A)** Is not approved by the United States Food and Drug Ad-

1   ministration for a therapeutic purpose; or

2       “(B) If approved by the United States Food and Drug Administration for  
3 a therapeutic purpose, is not marketed and sold solely for that purpose.

4       “(3)(a) ‘Place of employment’ means an enclosed area under the control  
5 of a public or private employer, including work areas, employee lounges,  
6 vehicles that are operated in the course of an employer’s business and that  
7 are not operated exclusively by one employee, rest rooms, conference rooms,  
8 classrooms, cafeterias, hallways, meeting rooms, elevators and stairways.

9       “(b) ‘Place of employment’ does not include a private residence unless it  
10 is used as a child care facility as defined in ORS 329A.250 or a facility pro-  
11 viding adult day care as defined in ORS 410.490.

12       “(4) ‘Public place’ means an enclosed area open to the public.

13       “(5) ‘Smoke shop’ means a business that is certified by the authority as  
14 a smoke shop pursuant to the rules adopted under ORS 433.847.

15       “(6) ‘Smoking instrument’ means any cigar, cigarette, pipe or other in-  
16 strument used to smoke tobacco, marijuana or any other inhalant.

17       “[(7) *Vapor industry event’ means any conference, convention or other*  
18 *gathering of manufacturers, wholesalers, retailers or users of inhalant delivery*  
19 *systems, as defined in ORS 431.840.]*

20       “[(8) *Vapor shop’ means a business that is primarily engaged in the sale,*  
21 *for off-premises consumption or use, of inhalant delivery systems, as defined*  
22 *in ORS 431.840, provided that the business:]*

23       “[(a) *Allows the aerosolizing or vaporizing of inhalant samples only for the*  
24 *purpose of making retail purchase decisions;]*

25       “[(b) *Does not allow the aerosolizing or vaporizing of inhalant samples that*  
26 *contain cannabinoids; and]*

27       “[(c) *Prohibits persons under 18 years of age from aerosolizing or*  
28 *vaporizing inhalant samples.]*

29       “**SECTION 23.** ORS 433.840, as amended by section 15 of this 2015 Act,  
30 is amended to read:

1       “433.840. The people of Oregon find that because exposure to secondhand  
2 smoke, certain exhaled small particulate matter or other exhaled toxins is  
3 known to cause cancer and other chronic diseases such as heart disease,  
4 asthma and bronchitis, it is necessary to reduce exposure to such smoke,  
5 matter or toxins by prohibiting the smoking[, *aerosolizing or vaporizing*] of  
6 inhalants in all public places and places of employment.

7       “**SECTION 24.** ORS 433.845, as amended by section 16 of this 2015 Act,  
8 is amended to read:

9       “433.845. (1) A person may not smoke[, *aerosolize or vaporize*] an inhalant  
10 or carry a lighted smoking instrument in a public place or place of employ-  
11 ment except as provided in ORS 433.850.

12       “(2) A person may not smoke[, *aerosolize or vaporize*] an inhalant or carry  
13 a lighted smoking instrument within 10 feet of the following parts of public  
14 places or places of employment:

15       “(a) Entrances;

16       “(b) Exits;

17       “(c) Windows that open; and

18       “(d) Ventilation intakes that serve an enclosed area.

19       “(3) A person may not smoke[, *aerosolize or vaporize*] an inhalant or carry  
20 a lighted smoking instrument in a room during the time that jurors are re-  
21 quired to use the room.

22       “**SECTION 25.** ORS 433.847, as amended by section 17 of this 2015 Act,  
23 is amended to read:

24       “433.847. (1) The Oregon Health Authority shall adopt rules establishing  
25 a certification system for smoke shops. In adopting such rules, the authority  
26 shall prohibit the smoking[, *aerosolizing or vaporizing*] of inhalants that are  
27 not tobacco products in smoke shops.

28       “(2) The authority shall issue a smoke shop certification to a business  
29 that:

30       “(a)(A) Is primarily engaged in the sale, for off-premises consumption or

1 use, of tobacco products and smoking instruments used to smoke tobacco  
2 products, with at least 75 percent of the gross revenues of the business re-  
3 sulting from such sales;

4 “(B) Prohibits persons under 18 years of age from entering the premises;

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

7 “(D) Does not sell, offer or allow on-premises consumption of food or  
8 beverages, including alcoholic beverages;

9 “(E) Is a stand-alone business with no other businesses or residential  
10 property attached to the premises;

11 “(F) Has a maximum seating capacity of four persons; and

12 “(G) Allows the smoking of tobacco product samples only for the purpose  
13 of making retail purchase decisions;

14 “(b) On December 31, 2008:

15 “(A) Met the requirements of paragraph (a)(A) to (D) of this subsection;  
16 and

17 “(B)(i) Was a stand-alone business with no other businesses or residential  
18 property attached; or

19 “(ii) Had a ventilation system that exhausted smoke from the business and  
20 was designed and terminated in accordance with the state building code  
21 standards for the occupancy classification in use; or

22 “(c)(A) Was certified as a smoke shop under ORS 433.835, as in effect  
23 immediately before June 30, 2011, by the authority on or before December  
24 31, 2012; and

25 “(B) Allows the smoking of cigarettes only if at least 75 percent of the  
26 gross revenues of the business results from the sale of cigarettes.

27 “(3) A smoke shop certified under subsection (2)(b) of this section must  
28 renew the smoke shop certification every five years by demonstrating to the  
29 satisfaction of the authority that the smoke shop:

30 “(a)(A) Meets the requirements of subsection (2)(a)(A) to (D) of this sec-

1 tion; and

2 “(B)(i) Is a stand-alone business with no other businesses or residential  
3 property attached; or

4 “(ii) Has a ventilation system that exhausts smoke from the business and  
5 is designed and terminated in accordance with the state building code stan-  
6 dards for the occupancy classification in use; and

7 “(b) Allows the smoking of cigarettes only if at least 75 percent of the  
8 gross revenues of the business results from the sale of cigarettes.

9 “(4) A smoke shop certified under subsection (2)(c) of this section must  
10 renew the smoke shop certification every five years by demonstrating to the  
11 satisfaction of the authority that the smoke shop:

12 “(a) Meets the requirements of ORS 433.835, as in effect immediately be-  
13 fore June 30, 2011; and

14 “(b) Allows the smoking of cigarettes only if at least 75 percent of the  
15 gross revenues of the business results from the sale of cigarettes.

16 “(5) The owner of a smoke shop certified under subsection (2)(b) or (c) of  
17 this section may transfer the certification with ownership of the smoke shop  
18 in accordance with rules adopted by the authority.

19 “(6) A smoke shop certified under subsection (2)(b) of this section may  
20 continue to be certified in a new location under subsection (2)(b) of this  
21 section if:

22 “(a)(A) The new location occupies no more than 3,500 square feet; or

23 “(B) If the old location occupied more than 3,500 square feet, the new  
24 location occupies no more than 110 percent of the space occupied by the old  
25 location; and

26 “(b) The smoke shop as operated in the new location:

27 “(A) Meets the requirements of subsection (2)(a)(A) to (D) of this section;

28 “(B)(i) Is a stand-alone business with no other businesses or residential  
29 property attached; or

30 “(ii) Has a ventilation system that exhausts smoke from the business and

1 is designed and terminated in accordance with the state building code stan-  
2 dards for the occupancy classification in use; and

3 “(C) Allows the smoking of cigarettes only if at least 75 percent of the  
4 gross revenues of the business results from the sale of cigarettes.

5 “(7) A smoke shop certified under subsection (2)(c) of this section may  
6 continue to be certified in a new location under subsection (2)(c) of this  
7 section if:

8 “(a)(A) The new location occupies no more than 3,500 square feet; or

9 “(B) If the old location occupied more than 3,500 square feet, the new  
10 location occupies no more than 110 percent of the space occupied by the old  
11 location; and

12 “(b) The smoke shop as operated in the new location:

13 “(A) Meets the requirements of ORS 433.835, as in effect immediately be-  
14 fore June 30, 2011; and

15 “(B) Allows the smoking of cigarettes only if at least 75 percent of the  
16 gross revenues of the business results from the sale of cigarettes.

17 “(8) The rules adopted under subsection (1) of this section must provide  
18 that, in order to obtain a smoke shop certification, a business must agree to  
19 allow the authority to make unannounced inspections of the business to de-  
20 termine compliance with ORS 433.835 to 433.875.

21 **“SECTION 26.** ORS 433.850, as amended by section 18 of this 2015 Act,  
22 is amended to read:

23 “433.850. (1) An employer:

24 “(a) Shall provide for employees a place of employment that is free of all  
25 smoke[, *aerosols and vapors*] containing inhalants; and

26 “(b) May not allow employees to smoke[, *aerosolize or vaporize*] inhalants  
27 at the place of employment.

28 “(2) Notwithstanding subsection (1) of this section:

29 “(a) The owner or person in charge of a hotel or motel may designate up  
30 to 25 percent of the sleeping rooms of the hotel or motel as rooms in which

1 the smoking[, *aerosolizing or vaporizing*] of inhalants is permitted.

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

5 “(c) The smoking of tobacco products is permitted in a smoke shop.

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

9 “[*(e) The aerosolizing or vaporizing of inhalants that are not cannabinoids*  
10 *is permitted in a vapor shop or at a vapor industry event.*]

11 “[*(f)*] (e) A performer may smoke or carry a lighted smoking instrument  
12 that does not contain tobacco or marijuana[, *and may aerosolize or vaporize*  
13 *a substance that does not contain nicotine or a cannabinoid,*] while performing  
14 in a scripted stage, motion picture or television production if:

15 “(A) The production is produced by an organization whose primary pur-  
16 pose is producing scripted productions; and

17 “(B) The act of smoking[, *aerosolizing or vaporizing*] is an integral part  
18 of the production.

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

22 “**SECTION 27.** ORS 433.870, as amended by section 20 of this 2015 Act,  
23 is amended to read:

24 “433.870. ORS 433.835 to 433.875 and rules adopted under ORS 433.835 to  
25 433.875 are in addition to and not in lieu of any other law regulating the  
26 smoking[, *aerosolizing or vaporizing*] of inhalants.

27 “**SECTION 28.** **The amendments to ORS 433.835, 433.840, 433.845,**  
28 **433.847, 433.850 and 433.870 by sections 22 to 27 of this 2015 Act apply**  
29 **to conduct occurring on or after the operative date specified in section**  
30 **41 of this 2015 Act.”.**



1 In line 33, delete “22” and insert “29”.  
2 On page 12, line 8, delete “23” and insert “30”.  
3 In line 22, delete “24” and insert “31” and delete “22 and 23” and insert  
4 “29 and 30”.  
5 In line 27, delete “25” and insert “32”.  
6 On page 13, line 19, delete “26” and insert “33”.  
7 In line 32, delete “27” and insert “34”.  
8 On page 14, line 3, delete “28” and insert “35” and delete “25 to 27” and  
9 insert “32 to 34”.  
10 In line 9, delete “29” and insert “36”.  
11 In line 13, delete “30” and insert “37”.  
12 In line 18, delete “31” and insert “38”.  
13 In line 27, delete “32” and insert “39”.  
14 On page 15, line 20, delete “33” and insert “40”.  
15 In line 26, delete “22” and insert “29”.  
16 After line 27, insert:  
17 **“SECTION 41. The amendments to ORS 433.835, 433.840, 433.845,**  
18 **433.847, 433.850 and 433.870 by sections 22 to 27 of this 2015 Act become**  
19 **operative January 1, 2020.”.**  
20 In line 31, delete “34” and insert “42”.  
21 In line 37, delete “35” and insert “43”.  
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