

**PROPOSED AMENDMENTS TO
HOUSE BILL 3534**

1 On page 1 of the printed bill, line 2, delete “creating new provisions;
2 amending ORS 433.850;”.

3 Delete lines 5 through 27 and delete pages 2 through 6 and insert:

4 **“SECTION 1. Definitions. As used in sections 1 to 11 of this 2015
5 Act:**

6 **“(1)(a) ‘Inhalant delivery system’ means:**

7 **“(A) A device that can be used to deliver nicotine in the form of a
8 vapor or aerosol to a person inhaling from the device; or**

9 **“(B) A component of a device described in this paragraph or a sub-
10 stance in any form sold for the purpose of being vaporized or
11 aerosolized by a device described in this paragraph, whether the com-
12 ponent or substance is sold separately or is not sold separately.**

13 **“(b) ‘Inhalant delivery system’ does not include:**

14 **“(A) Any product that has been approved by the United States Food
15 and Drug Administration for sale as a tobacco cessation product or for
16 any other therapeutic purpose, if the product is marketed and sold
17 solely for the approved purpose; and**

18 **“(B) Tobacco products.**

19 **“(2) ‘Tobacco products’ means:**

20 **“(a) Bidis, cigars, cheroots, stogies, periques, granulated, plug cut,
21 crimp cut, ready rubbed and other smoking tobacco, snuff, snuff flour,
22 cavendish, plug and twist tobacco, fine-cut and other chewing**

1 tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of
2 tobacco and other forms of tobacco, prepared in a manner that makes
3 the tobacco suitable for chewing or smoking in a pipe or otherwise,
4 or for both chewing and smoking; or

5 “(b) Cigarettes as defined in ORS 323.010 (1).

6 “SECTION 2. Licensure requirement. A person may not make a
7 retail sale of a tobacco product or an inhalant delivery system in this
8 state unless the person sells the tobacco product or inhalant delivery
9 system at a premises for which a license has been issued under section
10 4 of this 2015 Act.

11 “SECTION 3. Premises to which Act does not apply. Sections 1 to
12 11 of this 2015 Act do not apply to a person making a retail sale of an
13 inhalant delivery system at a medical marijuana facility registered
14 under ORS 475.314 or a premises for which a retail license has been
15 issued under section 22, chapter 1, Oregon Laws 2015 (Ballot Measure
16 91 (2014)), unless the person makes a retail sale of a component or
17 substance described in section 1 (1)(a)(B) of this 2015 Act that contains
18 nicotine.

19 “SECTION 4. Licensure qualifications. (1) The Oregon Liquor Con-
20 trol Commission shall license qualified premises for the retail sale of
21 tobacco products or inhalant delivery systems.

22 “(2)(a) To be qualified for licensure under this section, a premises:

23 “(A) Must have a physical address;

24 “(B) May not be located at the same address as a residence; and

25 “(C) May not be located within 1,000 feet of any part of the premises
26 of:

27 “(i) A public school for which attendance is compulsory under ORS
28 339.020; or

29 “(ii) A private or parochial school that teaches children as described
30 in ORS 339.030 (1)(a).

1 “(b) Paragraph (a)(C) of this subsection does not apply to a premises
2 for which a license has been issued under this section before the date
3 on which the school is first attended by students unless the commis-
4 sion has revoked or refused to renew the license pursuant to section
5 7 of this 2015 Act.

6 “(3) For the purpose of licensing premises under this section, the
7 commission shall adopt rules establishing:

8 “(a) The term of licensure;

9 “(b) Procedures for applying for and renewing licenses; and

10 “(c) Licensure application, issuance and renewal fees that are rea-
11 sonably calculated to pay the costs of administering sections 1 to 11
12 of this 2015 Act.

13 “(4) Amounts collected pursuant to subsection (3)(c) of this section
14 shall be deposited in the Tobacco Control Fund established under sec-
15 tion 9 of this 2015 Act.

16 “(5) The commission may inspect the proposed premises of an ap-
17 plicant under this section to ensure compliance with this section and
18 rules adopted under this section.

19 “SECTION 5. Prohibitions. A person that makes retail sales of to-
20 bacco products or inhalant delivery systems may not:

21 “(a) Sell, offer for sale or allow to be sold a tobacco product or an
22 inhalant delivery system for free or at a nominal price for the purpose
23 of promoting the tobacco product or inhalant delivery system;

24 “(b) Sell, offer for sale or allow to be sold a tobacco product or a
25 component or substance described in section 1 (1)(a)(B) of this 2015
26 Act at a reduced price if the buyer of the tobacco product, component
27 or substance purchases multiple packets of the tobacco product, com-
28 ponent or substance during a single transaction; or

29 “(c) Redeem a coupon for a tobacco product or an inhalant delivery
30 system.

1 **“SECTION 6. Inspections and enforcement. (1) The Oregon Liquor**
2 **Control Commission may inspect a premises licensed under section 4**
3 **of this 2015 Act to ensure compliance with sections 1 to 11 of this 2015**
4 **Act and rules adopted under sections 1 to 11 of this 2015 Act.**

5 **“(2) At the time of conducting an inspection pursuant to this sec-**
6 **tion, the commission shall provide educational information to the**
7 **holder of a license issued under section 4 of this 2015 Act or an em-**
8 **ployee of the holder of a license about the requirements of sections 1**
9 **to 11 of this 2015 Act and the health impacts of using nicotine derived**
10 **products. If the holder of the license or the employee is not proficient**
11 **in speaking English, the commission must make every reasonable ef-**
12 **fort to provide the holder or the employee with educational informa-**
13 **tion written in the language of the holder or the employee or to**
14 **communicate the information orally to the holder or the employee in**
15 **the language of the holder or the employee.**

16 **“(3) The commission shall consult with the Oregon Health Author-**
17 **ity in compiling the educational information described in subsection**
18 **(2) of this section.**

19 **“(4) The state police, sheriffs and other police officers within this**
20 **state shall assist the commission in enforcing sections 1 to 11 of this**
21 **2015 Act and rules adopted under sections 1 to 11 of this 2015 Act.**

22 **“SECTION 7. Discipline. Subject to the applicable provisions of ORS**
23 **chapter 183, the Oregon Liquor Control Commission may revoke, sus-**
24 **pend or refuse to issue or renew a license under section 4 of this 2015**
25 **Act if any individual who owns the premises or participates in the**
26 **management of the premises or any individual who is employed for the**
27 **purpose of making sales at the premises:**

28 **“(1) Violates a provision of sections 1 to 11 of this 2015 Act or a rule**
29 **adopted under sections 1 to 11 of this 2015 Act;**

30 **“(2) Violates ORS 431.840 or any rule adopted under ORS 431.840;**

1 **“(3) Violates any applicable state rule, local ordinance or federal**
2 **law or regulation that imposes a duty on or otherwise governs the**
3 **retail sale of tobacco products or inhalant delivery systems; or**

4 **“(4) Makes a false statement to the commission.**

5 **“SECTION 8. Civil penalty. (1) The Oregon Liquor Control Com-**
6 **mission may impose a civil penalty on the holder of a license under**
7 **section 4 of this 2015 Act for each violation of sections 1 to 11 of this**
8 **2015 Act. A civil penalty imposed under this section may not be more**
9 **than \$5,000 for each violation.**

10 **“(2) Amounts collected under subsection (1) of this section shall be**
11 **deposited in the Tobacco Control Fund established under section 9 of**
12 **this 2015 Act.**

13 **“SECTION 9. Tobacco Control Fund. There is established the To-**
14 **bacco Control Fund, separate and distinct from the General Fund.**
15 **Moneys deposited in the Tobacco Control Fund are continuously ap-**
16 **propriated to the Oregon Liquor Control Commission for carrying out**
17 **the duties, functions and powers of the commission under sections 1**
18 **to 11 of this 2015 Act.**

19 **“SECTION 10. Rules. The Oregon Liquor Control Commission shall**
20 **adopt rules necessary for the effective administration of sections 1 to**
21 **11 of this 2015 Act.**

22 **“SECTION 11. Intergovernmental agreement. (1) The Oregon Liquor**
23 **Control Commission shall enter into an agreement with the Oregon**
24 **Health Authority for the purposes of administering and enforcing the**
25 **provisions of ORS 433.835 to 433.875 and rules adopted under ORS**
26 **433.835 to 433.875 that are related to the regulation of cigar bars, as**
27 **defined in ORS 433.835, and smoke shops certified under ORS 433.835**
28 **to 433.875, including those provisions and rules related to the certi-**
29 **fication process.**

30 **“(2) As part of the agreement entered into under subsection (1) of**

1 this section, the authority shall transfer all moneys collected as a fee
2 for certifying shops under ORS 433.835 to 433.875 to the commission.

3 “(3) Moneys transferred under subsection (2) of this section shall
4 be deposited in the Tobacco Control Fund established under section 9
5 of this 2015 Act.

6 “(4) In addition to the agreement entered into under subsection (1)
7 of this section, the authority, pursuant to an agreement or otherwise,
8 may assist the commission with the commission’s duties under
9 sections 1 to 11 of this 2015 Act.

10 “SECTION 12. Temporary provision for initial applicants. (1) Sub-
11 ject to subsection (2) of this section, section 4 (2)(a)(C) of this 2015 Act
12 does not apply to a premises that applies for a license under section 4
13 of this 2015 Act no later than one month after the operative date
14 specified in section 13 of this 2015 Act.

15 (2) This section does not apply to a premises for which a license has
16 been issued under section 4 of this 2015 Act if the business located on
17 the premises changes ownership.

18 “SECTION 13. Operative date. (1) Sections 1 to 11 of this 2015 Act
19 become operative on July 1, 2017.

20 “(2) The Oregon Liquor Control Commission may take any action
21 before the operative date specified in subsection (1) of this section that
22 is necessary to enable the commission to exercise, on and after the
23 operative date specified in subsection (1) of this section, all the duties,
24 functions and powers conferred on the commission by sections 1 to 11
25 of this 2015 Act.

26 “SECTION 14. Report. (1) The Oregon Liquor Control Commission
27 shall make a report on any action taken by the commission pursuant
28 to section 13 (2) of this 2015 Act that was necessary to enable the
29 commission to exercise, on and after the operative date specified in
30 section 13 (1) of this 2015 Act, the duties, functions and powers con-

1 **ferred on the commission by sections 1 to 11 of this 2015 Act. The**
2 **commission may include in its report recommendations for legislation**
3 **to better enable the commission to exercise those duties, functions and**
4 **powers.**

5 **“(2) The commission shall submit a report:**

6 **“(a) To an interim committee of the Legislative Assembly related**
7 **to health on or before September 15, 2016; and**

8 **“(b) To the Legislative Assembly in the manner provided by ORS**
9 **192.245 on or before February 1, 2017.**

10 **“SECTION 15. Section captions. The section captions used in this**
11 **2015 Act are provided only for the convenience of the reader and do**
12 **not become part of the statutory law of this state or express any leg-**
13 **islative intent in the enactment of this 2015 Act.**

14 **“SECTION 16. Emergency clause. This 2015 Act being necessary for**
15 **the immediate preservation of the public peace, health and safety, an**
16 **emergency is declared to exist, and this 2015 Act takes effect on its**
17 **passage.”.**

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