

**PROPOSED AMENDMENTS TO
A-ENGROSSED SENATE BILL 663**

1 On page 1 of the printed A-engrossed bill, line 2, after the first semicolon
2 delete the rest of the line and lines 3 and 4 and insert “and declaring an
3 emergency.”.

4 Delete lines 6 through 17 and delete pages 2 through 20 and insert:

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

7 **“(1) ‘Inhalant delivery system’ has the meaning given that term in
8 ORS 431.840.**

9 **“(2) ‘Premises’ means a business that makes retail sales of tobacco
10 products or inhalant delivery systems.**

11 **“(3) ‘Tobacco products’ has the meaning given that term in ORS
12 431.840.**

13 **“SECTION 2. Permit requirement. (1) A person may not make a
14 retail sale of a tobacco product or an inhalant delivery system in this
15 state unless the person sells the tobacco product or inhalant delivery
16 system at a premises for which a permit has been issued under section
17 4 of this 2015 Act.**

18 **“(2) The governing body of a city or county may not adopt an or-
19 dinance:**

20 **“(a) That requires a person to have a license or permit issued by
21 the city or county to make a retail sale of a tobacco product or an
22 inhalant delivery system in addition to the permit required by this**

1 section; or

2 “(b) That prohibits, inhibits or otherwise regulates the retail sale
3 or use of tobacco products or inhalant delivery systems, except as
4 authorized by or pursuant to the statutory laws of this state.

5 “SECTION 3. Premises to which Act does not apply. Sections 1 to
6 11 of this 2015 Act do not apply to a person making a retail sale of an
7 inhalant delivery system at a medical marijuana facility registered
8 under ORS 475.314 or at a premises for which a retail license has been
9 issued under section 22, chapter 1, Oregon Laws 2015 (Ballot Measure
10 91 (2014)), unless the person makes a retail sale of a component or
11 substance described in ORS 431.840 (1)(a)(A)(ii) that contains nicotine.

12 “SECTION 4. Permitting. (1) The Department of Revenue shall issue
13 permits to qualified premises for the retail sale of tobacco products
14 or inhalant delivery systems.

15 “(2) To be qualified for a permit under this section, a premises:

16 “(a) May not be a premises that is mobile; and

17 “(b) May not be located at the same address as a residence.

18 “(3) For the purpose of issuing permits to qualified premises under
19 this section, the department shall adopt rules establishing procedures
20 for applying for a permit.

21 “(4) The department may not require a person that holds a permit
22 under this section to renew the permit.

23 “(5) The department may charge a one-time filing fee for the issu-
24 ance of a permit under this section in an amount that does not exceed
25 \$25.

26 “(6) Information on a permit issued under this section is not con-
27 fidential. The department shall publicly disclose or publish a list of
28 persons to whom a permit has been issued under this section, the ad-
29 dress of a premises for which a permit has been issued under this
30 section and any other information set forth on a permit issued under

1 **this section.**

2 **“(7) The department shall maintain a database of information re-**
3 **lated to the issuance of permits under this section. At a minimum, the**
4 **database shall include the name of the person who applied for the**
5 **permit or to whom the permit has been issued and the address of each**
6 **premises for which a permit has been issued. For the purpose of**
7 **conducting inspections under ORS 431.853, information maintained in**
8 **the database must be accessible by the Oregon Health Authority at all**
9 **times.**

10 **“(8) All moneys collected under this section shall be deposited in the**
11 **suspense account described in section 9 of this 2015 Act.**

12 **“(9) The department may inspect the proposed premises of an ap-**
13 **plicant under this section to ensure compliance with this section and**
14 **rules adopted under this section.**

15 **“SECTION 5. Proof of issuance of permit. A person to whom a**
16 **permit has been issued under section 4 of this 2015 Act shall post proof**
17 **of having been issued a permit in a clear and conspicuous place at the**
18 **premises for which the permit has been issued.**

19 **“SECTION 6. Inspections and enforcement. (1) The Department of**
20 **Revenue may inspect a premises for which a permit has been issued**
21 **under section 4 of this 2015 Act to ensure compliance with:**

22 **“(a) Sections 1 to 11 of this 2015 Act or ORS 431.853 or a rule adopted**
23 **under sections 1 to 11 of this 2015 Act or ORS 431.853; or**

24 **“(b) A state or local law or rule or federal law or regulation that**
25 **governs the retail sale of tobacco products or inhalant delivery sys-**
26 **tems.**

27 **“(2) The department may enter into an agreement with the United**
28 **States Food and Drug Administration for the purpose of conducting**
29 **inspections under this section.**

30 **“SECTION 7. Discipline. The Department of Revenue may revoke**

1 or suspend or refuse to issue a permit under section 4 of this 2015 Act
2 if the person to whom the permit has been issued, or if an individual
3 who participates in the management of the premises for which the
4 permit has been issued or an individual who is employed for the pur-
5 pose of making sales at the premises:

6 “(1) Violates sections 1 to 11 of this 2015 Act or ORS 431.853 or a rule
7 adopted under sections 1 to 11 of this 2015 Act or ORS 431.853;

8 “(2) Violates a state or local law or rule or federal law or regulation
9 that governs the retail sale of tobacco products or inhalant delivery
10 systems; or

11 “(3) Makes a false statement to the department.

12 “SECTION 8. Civil penalty. (1) The Department of Revenue may
13 impose a civil penalty against a person to whom a permit has been
14 issued under section 4 of this 2015 Act if the person violates:

15 “(a) Sections 1 to 11 of this 2015 Act or ORS 431.853 or a rule adopted
16 under sections 1 to 11 of this 2015 Act or ORS 431.853; or

17 “(b) A state or local law or rule or federal law or regulation that
18 governs the retail sale of tobacco products or inhalant delivery sys-
19 tems.

20 “(2) Except as provided in subsection (3) of this section, a civil
21 penalty imposed under this section may not exceed \$1,000 per violation.

22 “(3) If the violation concerns the sale of tobacco products or an
23 inhalant delivery system to a person under 18 years of age, the de-
24 partment shall:

25 “(a) For the first violation, issue notice to the person that subse-
26 quent violations will result in disciplinary action; and

27 “(b) For subsequent violations, impose against the person a civil
28 penalty in the following amounts:

29 “(A) For the second violation occurring within a 12-month period,
30 \$250;

1 “(B) For the third violation occurring within a 24-month period,
2 \$500;

3 “(C) For the fourth violation occurring within a 24-month period,
4 \$500;

5 “(D) For the fifth violation occurring within a 36-month period,
6 \$5,000; and

7 “(E) For the sixth or subsequent violation occurring within a
8 48-month period, \$11,000.

9 “(4) The department may not impose a civil penalty against a per-
10 son under subsection (3)(b) of this section if the United States Food
11 and Drug Administration has previously imposed a civil penalty
12 against the person for the violation.

13 “(5) Amounts collected by the department under this section shall
14 be deposited in the suspense account described in section 9 of this 2015
15 Act.

16 “SECTION 9. Suspense account. Amounts collected by the Depart-
17 ment of Revenue under sections 4 and 8 of this 2015 Act shall be paid
18 to the State Treasurer to be held in a suspense account established
19 under ORS 293.445. The department may pay expenses related to the
20 administration and enforcement of sections 1 to 11 of this 2015 Act out
21 of moneys deposited in the account. Amounts necessary to pay ad-
22 ministrative and enforcement expenses are continuously appropriated
23 to the department from the suspense account.

24 “SECTION 10. Rules. The Department of Revenue shall adopt rules
25 necessary for the effective administration of sections 1 to 11 of this
26 2015 Act.

27 “SECTION 11. Intergovernmental agreement. The Department of
28 Revenue and the Oregon Health Authority shall enter into an agree-
29 ment for purposes of conducting inspections under section 6 of this
30 2015 Act and ORS 431.853. As part of the agreement, the department

1 and authority shall share information:

2 “(1) Maintained in the database established under section 4 of this
3 2015 Act;

4 “(2) Related to inspections conducted under section 6 of this 2015
5 Act and ORS 431.853, and pursuant to the other statutory laws of this
6 state; and

7 “(3) Related to any administrative proceeding the subject of which
8 is a violation of a state or local law or rule or federal law or regulation
9 that governs the retail sale of tobacco products or inhalant delivery
10 systems.

11 **“SECTION 12. Operative date.** (1) Sections 1 to 11 of this 2015 Act
12 become operative on July 1, 2017.

13 “(2) The Department of Revenue and the Oregon Health Authority
14 may take any action before the operative date specified in subsection
15 (1) of this section that is necessary to enable the department and au-
16 thority to exercise, on and after the operative date specified in sub-
17 section (1) of this section, all the duties, functions and powers
18 conferred on the department and authority by sections 1 to 11 of this
19 2015 Act.

20 **“SECTION 13. Section captions.** The section captions used in this
21 2015 Act are provided only for the convenience of the reader and do
22 not become part of the statutory law of this state or express any leg-
23 islative intent in the enactment of this 2015 Act.

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

28