

**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. Licensure 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 license 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 issued by the city or
21 county to make a retail sale of a tobacco product or an inhalant de-
22 livery system in addition to the license required by this section; or**

1 **“(b) That imposes a restriction on licensing processes for purposes**
2 **of making retail sales of tobacco products or inhalant delivery systems**
3 **that are not authorized by or pursuant to the statutory laws of this**
4 **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 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. Licensure. (1) The Department of Revenue shall li-**
13 **cence qualified premises for the retail sale of tobacco products or**
14 **inhalant delivery systems.**

15 **“(2) To be qualified for licensure 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 licensing premises under this section, the**
19 **department shall adopt rules establishing:**

20 **“(a) The term of licensure;**

21 **“(b) Procedures for applying for and renewing licenses; and**

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

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

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

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

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

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

18 “SECTION 6. Inspections and enforcement. (1) The Department of
19 Revenue may inspect a premises licensed under section 4 of this 2015
20 Act to ensure compliance with:

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

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

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

29 “SECTION 7. Discipline. The Department of Revenue may revoke
30 or suspend or refuse to renew a license issued under section 4 of this

1 2015 Act if the person to whom the license has been issued, or if an
2 individual who participates in the management of the premises for
3 which the license has been issued or an individual who is employed for
4 the purpose of making sales at the premises:

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

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

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

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

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

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

19 “(2) Except as provided in subsection (3) of this section, a civil
20 penalty imposed under this section may not be more than \$1,000 per
21 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) The department may impose a fee that is reasonably calculated
14 to pay the costs of conducting an inspection related to a violation de-
15 scribed in subsection (3)(b) of this section if the department has pro-
16 vided notice under subsection (3)(a) of this section and is conducting
17 a subsequent inspection within a period of time described in subsection
18 (3)(b) of this section.

19 “(6) Amounts collected by the department under this section shall
20 be deposited in the suspense account described in section 9 of this 2015
21 Act.

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

30 “SECTION 10. Rules. The Department of Revenue shall adopt rules

1 necessary for the effective administration of sections 1 to 11 of this
2 2015 Act.

3 **SECTION 11. Intergovernmental agreement.** The Department of
4 Revenue and the Oregon Health Authority shall enter into an agree-
5 ment for purposes of conducting inspections under section 6 of this
6 2015 Act and ORS 431.853. As part of the agreement, the department
7 and authority shall share information:

8 “(1) Maintained in the database established under section 4 of this
9 2015 Act;

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

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

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

19 “(2) The Department of Revenue and the Oregon Health Authority
20 may take any action before the operative date specified in subsection
21 (1) of this section that is necessary to enable the department and au-
22 thority to exercise, on and after the operative date specified in sub-
23 section (1) of this section, all the duties, functions and powers
24 conferred on the department and authority by sections 1 to 11 of this
25 2015 Act.

26 **SECTION 13. Section captions.** The section captions used in this
27 2015 Act are provided only for the convenience of the reader and do
28 not become part of the statutory law of this state or express any leg-
29 islative intent in the enactment of this 2015 Act.

30 **SECTION 14. Emergency clause.** This 2015 Act being necessary for

1 **the immediate preservation of the public peace, health and safety, an**
2 **emergency is declared to exist, and this 2015 Act takes effect on its**
3 **passage.”.**

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