

**PROPOSED AMENDMENTS TO
A-ENGROSSED SENATE BILL 415**

1 On page 1 of the printed A-engrossed bill, line 2, after “ORS” insert
2 “323.500 and”.

3 Delete lines 5 through 11 and insert:

4 **“SECTION 1.** (1) As used in this section:

5 “(a)(A) ‘Characterizing flavor’ means a distinguishable taste or aroma,
6 such as chocolate, vanilla, honey or any fruit, candy, dessert, alcoholic
7 beverage, herb or spice.

8 “(B) ‘Characterizing flavor’ does not include the distinguishable taste or
9 aroma of tobacco, menthol, mint or wintergreen, or a combination of tobacco,
10 menthol, mint or wintergreen, if those flavors are not combined with any
11 other characterizing flavor.

12 “(b) ‘Flavored noncombustible tobacco product’ means a tobacco product,
13 as defined in ORS 431.840, that is not intended for combustion and that has
14 been manufactured to impart a characterizing flavor.

15 “(2) A person may not distribute, sell or allow to be sold a flavored
16 noncombustible tobacco product in this state.”.

17 On page 2, after line 13, insert:

18 **“SECTION 3.** ORS 323.500 is amended to read:

19 “323.500. As used in ORS 323.500 to 323.645, unless the context otherwise
20 requires:

21 “(1) ‘Business’ means any trade, occupation, activity or enterprise engaged
22 in for the purpose of selling or distributing tobacco products in this state.

1 “(2) ‘Cigar’ means a roll for smoking that is of any size or shape and that
2 is made wholly or in part of tobacco, irrespective of whether the tobacco is
3 pure or flavored, adulterated or mixed with any other ingredient, if the roll
4 has a wrapper made wholly or in greater part of tobacco and if 1,000 of these
5 rolls collectively weigh more than three pounds. ‘Cigar’ does not include a
6 cigarette, as defined in ORS 323.010.

7 “(3) ‘Consumer’ means any person who purchases tobacco products in this
8 state for the person’s use or consumption or for any purpose other than for
9 reselling the tobacco products to another person.

10 “(4) ‘Contraband tobacco products’ means tobacco products or packages
11 containing tobacco products:

12 “(a) That do not comply with the requirements of ORS 323.500 to 323.645
13 **or with the requirements of section 1 of this 2015 Act;**

14 “(b) That do not comply with the requirements of the tobacco products
15 tax laws of the federal government or of other states;

16 “(c) That bear trademarks that are counterfeit under ORS 647.135 or other
17 state or federal trademark laws; or

18 “(d) That have been sold, offered for sale or possessed for sale in this
19 state in violation of ORS 180.486.

20 “(5) ‘Department’ means the Department of Revenue.

21 “(6) ‘Distribute’ means:

22 “(a) Bringing, or causing to be brought, into this state from without this
23 state tobacco products for sale, storage, use or consumption;

24 “(b) Making, manufacturing or fabricating tobacco products in this state
25 for sale, storage, use or consumption in this state;

26 “(c) Shipping or transporting tobacco products to retail dealers in this
27 state, to be sold, stored, used or consumed by those retail dealers;

28 “(d) Storing untaxed tobacco products in this state that are intended to
29 be for sale, use or consumption in this state;

30 “(e) Selling untaxed tobacco products in this state; or

1 “(f) As a consumer, being in possession of untaxed tobacco products in
2 this state.

3 “(7) ‘Distributor’ means:

4 “(a) Any person engaged in the business of selling tobacco products in
5 this state who brings, or causes to be brought, into this state from without
6 the state any tobacco products for sale;

7 “(b) Any person who makes, manufactures or fabricates tobacco products
8 in this state for sale in this state;

9 “(c) Any person engaged in the business of selling tobacco products
10 without this state who ships or transports tobacco products to retail dealers
11 in this state, to be sold by those retail dealers;

12 “(d) Any person, including a retail dealer, who sells untaxed tobacco
13 products in this state; or

14 “(e) A consumer in possession of untaxed tobacco products in this state.

15 “(8) ‘Manufacturer’ means a person who manufactures tobacco products
16 for sale.

17 “(9) ‘Moist snuff’ means:

18 “(a) Any finely cut, ground or powdered tobacco that is not intended to
19 be smoked or placed in a nasal cavity; or

20 “(b) Any other product containing tobacco that is intended or expected
21 to be consumed without being combusted.

22 “(10) ‘Place of business’ means any place where tobacco products are sold
23 or where tobacco products are manufactured, stored or kept for the purpose
24 of sale or consumption, including any vessel, vehicle, airplane, train or
25 vending machine.

26 “(11) ‘Retail dealer’ means any person who is engaged in the business of
27 selling or otherwise dispensing tobacco products to consumers. The term also
28 includes the operators of or recipients of revenue from all places such as
29 smoke shops, cigar stores and vending machines, where tobacco products are
30 made or stored for ultimate sale to consumers.

1 “(12) ‘Sale’ means any transfer, exchange or barter, in any manner or by
2 any means, for a consideration, and includes and means all sales made by
3 any person. It includes a gift by a person engaged in the business of selling
4 tobacco products, for advertising, as a means of evading the provisions of
5 ORS 323.500 to 323.645, or for any other purpose.

6 “(13) ‘Taxpayer’ includes a distributor or other person required to pay a
7 tax imposed under ORS 323.500 to 323.645.

8 “(14) ‘Tobacco products’ means cigars, cheroots, stogies, periques,
9 granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco,
10 snuff, snuff flour, moist snuff, cavendish, plug and twist tobacco, fine-cut and
11 other chewing tobaccos, shorts, refuse scraps, clippings, cuttings and
12 sweepings of tobacco and other kinds and forms of tobacco, prepared in such
13 manner as to be suitable for chewing or smoking in a pipe or otherwise, or
14 both for chewing and smoking, but shall not include cigarettes as defined in
15 ORS 323.010.

16 “(15) ‘Untaxed tobacco products’ means tobacco products for which the
17 tax required under ORS 323.500 to 323.645 has not been paid.

18 “(16) ‘Wholesale sales price’ means the price paid for untaxed tobacco
19 products to or on behalf of a seller by a purchaser of the untaxed tobacco
20 products.”.

21 In line 14, delete “3” and insert “4”.

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