

House Bill 4103

Sponsored by Representative BARTON, Senator STEINER HAYWARD (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Establishes \$1,000 fee for smoke shop certification, renewal of smoke shop certification and re-location of smoke shop.

Requires smoke shops certified under current criteria to renew certification every five years.

A BILL FOR AN ACT

1
2 Relating to imposition of fees on smoke shops; creating new provisions; and amending ORS 433.847.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 433.847 is amended to read:

5 433.847. (1) The Oregon Health Authority shall adopt rules establishing a certification system
6 for smoke shops. In adopting such rules, the authority shall prohibit the smoking, aerosolizing or
7 vaporizing of inhalants that are not tobacco products in smoke shops.

8 (2) The authority shall issue a smoke shop certification to a business that:

9 (a)(A) Is primarily engaged in the sale, for off-premises consumption or use, of tobacco products
10 and smoking instruments used to smoke tobacco products, with at least 75 percent of the gross re-
11 venues of the business resulting from such sales;

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

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

15 (D) Does not sell or offer food or beverages and does not sell, offer or allow on-premises con-
16 sumption of alcoholic beverages;

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

19 (F) Has a maximum seating capacity of four persons; *[and]*

20 (G) Allows the smoking of tobacco product samples only for the purpose of making retail pur-
21 chase decisions; **and**

22 **(H) Pays the fee established under subsection (10)(a) of this section;**

23 (b) On December 31, 2008:

24 (A) Met the requirements of paragraph (a)(A) to (D) of this subsection; and

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

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

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

31 (B) Allows the smoking of cigarettes only if at least 75 percent of the gross revenues of the

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 business results from the sale of cigarettes.

2 **(3) A smoke shop certified under subsection (2)(a) of this section must renew the smoke**
 3 **shop certification every five years by paying the fee established under subsection (10)(b) of**
 4 **this section and demonstrating to the satisfaction of the authority that the smoke shop**
 5 **meets the requirements of subsection (2)(a)(A) to (G) of this section.**

6 [(3)] **(4) A smoke shop certified under subsection (2)(b) of this section must renew the smoke**
 7 **shop certification every five years by paying the fee established under subsection (10)(b) of this**
 8 **section and demonstrating to the satisfaction of the authority that the smoke shop:**

9 (a)(A) Meets the requirements of subsection (2)(a)(A) to (D) of this section; and

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

11 (ii) Has a ventilation system that exhausts smoke from the business and is designed and termi-
 12 nated in accordance with the state building code standards for the occupancy classification in use;
 13 and

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

16 [(4)] **(5) A smoke shop certified under subsection (2)(c) of this section must renew the smoke**
 17 **shop certification every five years by paying the fee established under subsection (10)(b) of this**
 18 **section and demonstrating to the satisfaction of the authority that the smoke shop:**

19 (a) Meets the requirements of ORS 433.835, as in effect immediately before June 30, 2011; and

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

22 [(5)] **(6) The owner of a smoke shop certified under subsection (2)(b) or (c) of this section may**
 23 **transfer the certification with ownership of the smoke shop if the transfer is made in accordance**
 24 **with rules adopted by the authority.**

25 [(6)] **(7) A smoke shop certified under subsection (2)(b) of this section may continue to be certi-**
 26 **fied in a new location under subsection (2)(b) of this section if the smoke shop pays the fee es-**
 27 **tablished under subsection (10)(c) of this section and:**

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

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

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

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

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

34 (ii) Has a ventilation system that exhausts smoke from the business and is designed and termi-
 35 nated in accordance with the state building code standards for the occupancy classification in use;
 36 and

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

39 [(7)] **(8) A smoke shop certified under subsection (2)(c) of this section may continue to be certi-**
 40 **fied in a new location under subsection (2)(c) of this section if the smoke shop pays the fee es-**
 41 **tablished under subsection (10)(c) of this section and:**

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

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

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

1 (A) Meets the requirements of ORS 433.835, as in effect immediately before June 30, 2011; and

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

4 [(8)] (9) Rules adopted under this section must provide that, in order to obtain a smoke shop
5 certification, a business must agree to allow the authority to make unannounced inspections of the
6 business to determine compliance with ORS 433.835 to 433.875.

7 (10) The authority shall charge a fee of \$1,000 for:

8 (a) A smoke shop certification under subsection (2)(a) of this section.

9 (b) A smoke shop certification renewal under subsection (3), (4) or (5) of this section.

10 (c) The relocation of a smoke shop under subsection (7) or (8) of this section.

11 **SECTION 2.** The amendments to ORS 433.847 by section 1 of this 2016 Act apply to busi-
12 nesses that apply for smoke shop certification or renewal of smoke shop certification, or that
13 apply for relocation of a smoke shop, on and after the effective date of this 2016 Act.

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