

## SB 235 B STAFF MEASURE SUMMARY

### House Committee On Health Care

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**Action Date:** 05/22/17

**Action:** Do pass with amendments to the A-Eng bill, and be referred to Ways and Means. (Printed B-Eng).

**Vote:** 7-2-0-0

**Yeas:** 7 - Alonso Leon, Buehler, Greenlick, Hayden, Keny-Guyer, Malstrom, Nosse

**Nays:** 2 - Hack, Kennemer

**Fiscal:** Fiscal impact issued

**Revenue:** Has minimal revenue impact

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#### WHAT THE MEASURE DOES:

Specifies that a person selling tobacco products or inhalant delivery system at or from a premises must have a license. Establishes the licensing program within the Oregon Department of Revenue (DOR). Directs DOR to enter into agreements with the Oregon Health Authority and local public health authorities for the purpose of disciplining licensees or applicants for license that violates the law, ordinances or rules governing the retail sale of tobacco products and inhalant delivery systems. Preempts local counties and cities from requiring a retailer have a local license but retains the local authority to revoke the state license if noncompliance occurs. Amends the Oregon Indoor Clean Air Act (ORS 433.835) by allowing use of tobacco products in an enclosed area that is outdoors. Defines enclosed area.

#### ISSUES DISCUSSED:

- Proposed amendment that requires tobacco retailers be licensed
- Oregon's rates of selling tobacco to minors
- Tobacco and vapor product retailers license to be issued by the Oregon Department of Revenue
- Concerns about licensing process
- Proposed amendment

#### EFFECT OF AMENDMENT:

Specifies that a person selling tobacco products or inhalant delivery system at or from a premises has to have a license. Establishes the licensing program within the Oregon Department of Revenue (DOR). Directs DOR to enter into agreements with the Oregon Health Authority and local public health authorities for the purpose of disciplining licensees or applicants for license that violates the law, ordinances or rules governing the retail sale of tobacco products and inhalant delivery systems. Preempts local counties and cities from requiring a retailer have a local license but retains the local authority to revoke the state license if noncompliance occurs.

#### BACKGROUND:

States and local governments have legal authority to regulate the sale and distribution of tobacco products in their jurisdictions. States can require retailers that sell tobacco products to obtain a license or permits from the state or local government where the retailer does business. State tobacco licensing laws can help government to identify all the businesses selling tobacco to consumers in the community or state, which in turn helps the government enforce existing retailer laws. Additionally, through conditions imposed on the licensee, retailer licenses give government improved control over where tobacco can be sold and what kind of businesses can sell tobacco products. The government can also impose additional conditions on licenses to help ensure responsible retailing. Finally, retailer licensing provides the government with an efficient enforcement mechanism to ensure that retailers comply with other applicable laws. If a retailer evades taxes, sells to minors or violates other tobacco control laws, the government can suspend or revoke the license in addition to (or in lieu of) enforcing the underlying violation.

This Summary has not been adopted or officially endorsed by action of the committee.

## **SB 235 B STAFF MEASURE SUMMARY**

Oregon's Indoor Clean Air Act (ICAA) protects residents in Oregon from the health risks of secondhand smoke. The ICAA, also known as the Smokefree Workplace Law, prohibits smoking in the workplace and within 10 feet of all entrances, exits, windows, accessibility ramps and air-intake vents. The State of Oregon is responsible for enforcing the law. If a business is found to be in noncompliance with the law, they can incur fines up to \$500 per day for each violation (maximum of \$2,000 per month). In 2016, Oregon expanded the ICAA to include the use of inhalant delivery systems, which are devices that can be used to deliver nicotine in the form of vapor or aerosol. Individuals may not use cigarettes, e-cigarettes or other inhalant delivery systems in any indoor public spaces in Oregon or in cars with minors.

The ICAA also prohibits smoking in outdoor workplaces and outdoor public spaces. Smoking areas must not be enclosed. According to the ICAA, an enclosed area includes all space between a floor and ceiling that is enclosed on three or more sides by permanent or temporary walls or windows that extend from the floor to ceiling (e.g., smoking patio or shelter). Any outdoor smoking shelter with three walls could be determined to be an enclosed space, even if there are substantial holes, gaps, or windows in the walls.