

House Bill 3403

Sponsored by Representative NOSSE, Senator TAYLOR

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**.

Imposes tax on distribution of inhalant product based on percentage of wholesale price. Defines inhalant product as including inhalant-form nicotine but excluding cigarettes, tobacco products and cannabinoids.

Requires licensing of place of business of inhalant product distributor. Establishes licensing program within Department of Revenue. Provides that licensing provisions become operative January 1, 2018.

Applies to inhalant-form nicotine sold after January 1, 2018.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to inhalants; creating new provisions; amending ORS 131.602; prescribing an effective date;
3 and providing for revenue raising that requires approval by a three-fifths majority.

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

SECTION 1. As used in sections 1 to 25 of this 2017 Act:

6 (1) **"Business" means any trade, occupation, activity or enterprise engaged in for the**
7 **purpose of selling or distributing inhalant product in this state.**

8 (2) **"Consumer" means any person who purchases inhalant product in this state for the**
9 **person's use or consumption or for any purpose other than reselling the inhalant product to**
10 **another person.**

11 (3) **"Contraband inhalant product" means inhalant product or packages containing**
12 **inhalant product that do not comply with the requirements of sections 1 to 25 of this 2017**
13 **Act.**

14 (4) **"Distribute" means:**

15 (a) **Bringing, or causing to be brought, into this state from without this state inhalant**
16 **product for sale, storage, use or consumption;**

17 (b) **Making, manufacturing, mixing, formulating or fabricating inhalant product in this**
18 **state for sale, storage, use or consumption in this state;**

19 (c) **Shipping or transporting inhalant product to retail dealers in this state, to be sold,**
20 **stored, used or consumed by those retail dealers;**

21 (d) **Storing untaxed inhalant product in this state that is intended to be for sale, use or**
22 **consumption in this state;**

23 (e) **Selling untaxed inhalant product in this state; or**

24 (f) **As a consumer, being in possession of untaxed inhalant product in this state.**

25 (5) **"Inhalant delivery system" has the meaning given that term in ORS 431A.175.**

26 (6)(a) **"Inhalant-form nicotine" means nicotine that:**

27 (A) **Is in a form that allows the nicotine to be delivered into a person's respiratory sys-**
28 **tem;**

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 (B) Is inhaled for the purpose of delivering the nicotine into a person's respiratory sys-
2 tem; and

3 (C)(i) Is not approved by, or emitted by a device approved by, the United States Food and
4 Drug Administration for a therapeutic purpose; or

5 (ii) If approved by, or emitted by a device approved by, the United States Food and Drug
6 Administration for a therapeutic purpose, is not marketed and sold solely for that purpose.

7 (b) "Inhalant-form nicotine" does not include cigarettes as defined in ORS 323.010 or to-
8 bacco products as defined in ORS 323.500.

9 (7) "Inhalant product" means:

10 (a) A substance, other than cannabinoids, in any form sold for the purpose of being
11 vaporized or aerosolized by an inhalant delivery system; or

12 (b) Inhalant-form nicotine.

13 (8) "Inhalant product distributor" means:

14 (a) Any person that is engaged in the business of selling or otherwise dispensing inhalant
15 product in this state who brings, or causes to be brought, into this state from outside this
16 state inhalant product for sale;

17 (b) Any person who makes, manufactures, mixes, formulates or fabricates inhalant
18 product in this state for sale in this state;

19 (c) Any person engaged in the business of selling inhalant product outside this state who
20 ships or transports inhalant product to retail dealers in this state, to be sold by those retail
21 dealers;

22 (d) Any person, including a retail dealer, who sells untaxed inhalant product in this state;
23 or

24 (e) A consumer in possession of untaxed inhalant product in this state.

25 (9) "Inhalant product manufacturer" means any person who makes, manufactures,
26 mixes, formulates or fabricates inhalant product for sale.

27 (10) "Inhalant product wholesaler" means any person who engages in the sale of inhalant
28 product to any retail dealer for purposes other than use or consumption.

29 (11)(a) "Retail dealer" means any person who is engaged in the business of selling or
30 otherwise dispensing inhalant product to consumers.

31 (b) "Retail dealer" includes the operators of, or recipients of revenue from, all places
32 where inhalant product is made or stored for ultimate sale to consumers.

33 (12) "Sale" means any transfer, exchange or barter, in any manner or by any means, for
34 a consideration, or a gift by a person engaged in the business of selling inhalant product.

35 (13) "Untaxed inhalant product" means inhalant product for which the tax required under
36 sections 1 to 11 of this 2017 Act has not been paid.

37 (14) "Wholesale sales price" means the price paid for untaxed inhalant product to or on
38 behalf of a seller by a purchaser of the untaxed inhalant product. For inhalant product
39 manufacturers, wholesale sales price includes all amounts paid for any component or ingre-
40 dient of the inhalant product.

41 **SECTION 2.** (1) A tax is hereby imposed upon the distribution of inhalant product in this
42 state. The tax imposed by this section is intended to be a direct tax on the consumer, for
43 which payment upon distribution is required to achieve convenience and facility in the col-
44 lection and administration of the tax. The tax shall be imposed on an inhalant product dis-
45 tributor at the time of distribution.

1 (2) The tax imposed under this section shall be imposed, subject to the provisions of
2 subsection (3) of this section, at the rate of:

3 (a) Ninety-five percent of the wholesale sales price of inhalant product other than that
4 described in paragraph (b) or (c) of this subsection.

5 (b) Ninety-five percent of the wholesale sales price of disposable cartridges containing
6 inhalant product.

7 (c) Ninety-five percent of the wholesale sales price of a disposable inhalant delivery sys-
8 tem that is sold containing inhalant product.

9 (3)(a) In a transaction between parties that are not related or affiliated and that are
10 presumed to have roughly equal bargaining power, the wholesale sales price is the price by
11 the purchaser for the untaxed inhalant product.

12 (b) In a transaction between parties that are related or affiliated or presumed not to have
13 equal bargaining power, the wholesale sales price is determined based upon comparable
14 wholesale inhalant product distributors' arm's length wholesale transactions as described in
15 paragraph (a) of this subsection.

16 (4) A tax under this section is not imposed on an inhalant delivery system that, when
17 sold, does not contain inhalant product.

18 (5) If the tax imposed under this section does not equal an amount calculable to a whole
19 cent, the tax shall be equal to the next higher whole cent.

20 **SECTION 3.** (1) Except as otherwise provided in sections 1 to 11 of this 2017 Act, the tax
21 imposed by sections 1 to 11 of this 2017 Act shall be paid by each inhalant product distributor
22 to the Department of Revenue on or before the last day of January, April, July and October
23 of each year for the preceding calendar quarter.

24 (2) With each quarterly payment, the taxpayer shall submit a return to the department,
25 in such form and containing such information as the department shall prescribe.

26 (3) The tax, penalties and interest imposed by sections 1 to 11 of this 2017 Act shall be
27 a personal debt, from the time liability is incurred, owed by the taxpayer to the State of
28 Oregon until paid.

29 (4) The returns required of inhalant product distributors under this section shall be filed
30 by the inhalant product distributors regardless of whether any tax is owed by the inhalant
31 product distributors.

32 (5)(a) The department for good cause may extend the time for making any return under
33 sections 1 to 11 of this 2017 Act. The extension may be granted at any time if a written re-
34 quest is filed with the department within or prior to the period for which the extension may
35 be granted. The department may not grant an extension of more than one month.

36 (b) When the time for filing a return is extended at the request of a taxpayer, interest
37 shall be added at the rate established under ORS 305.220, from the time the return was ori-
38 ginally required to be filed to the time of payment.

39 **SECTION 4.** (1) An inhalant product wholesaler, inhalant product distributor or another
40 person dealing in or storing inhalant product shall keep receipts, invoices and other pertinent
41 records related to sales of inhalant product in the form required by the Department of Re-
42 venue. Each record shall be preserved for five years from the time to which the record re-
43 lates, or for as long as the inhalant product wholesaler, inhalant product distributor or other
44 person retains the inhalant product to which the record relates, whichever is later. During
45 the retention period and at any time prior to the destruction of records, the department may

1 give written notice to the inhalant product wholesaler, inhalant product distributor or other
2 person not to destroy records described in the notice without written permission of the de-
3 partment. Notwithstanding any other provision of law, the department shall preserve reports
4 and returns filed with the department for at least five years.

5 (2) The department or its authorized representative, upon oral or written demand, may
6 make examinations of the books, papers, records and equipment of persons making sales of
7 inhalant product and any other investigations the department deems necessary to carry out
8 the provisions of sections 1 to 25 of this 2017 Act.

9 **SECTION 5.** (1) The Department of Revenue has authority, by order or subpoena to be
10 served with the same force and effect and in the same manner as a subpoena is served in a
11 civil action in the circuit court, or the Oregon Tax Court, to require the production at any
12 time and place the department designates of any books, papers, accounts or other informa-
13 tion necessary to carry out sections 1 to 11 of this 2017 Act. The department may require
14 the attendance of any person having knowledge in the matter, and may take testimony and
15 require proof material for the information, with power to administer oaths to the person.

16 (2) If a person fails to comply with a subpoena or order of the department or to produce
17 or permit the examination or inspection of any books, papers, records and equipment perti-
18 nent to an investigation or inquiry under sections 1 to 11 of this 2017 Act, or to testify to
19 any matter regarding which the person is lawfully interrogated, the department may apply
20 to the Oregon Tax Court or to the circuit court of the county in which the person resides
21 or where the person is for an order to the person to attend and testify, or otherwise to
22 comply with the demand or request of the department. The department shall apply to the
23 court by ex parte motion, upon which the court shall make an order requiring the person
24 against whom the motion is directed to comply with the request or demand of the depart-
25 ment within 10 days after the service of the order, or within the additional time granted by
26 the court, or to justify the failure within that time. The order shall be served upon the per-
27 son to whom it is directed in the manner required by this state for service of process, which
28 service is required to confer jurisdiction upon the court. Failure to obey any order issued
29 by the court under this section is contempt of court. The remedy provided by this section is
30 in addition to other remedies, civil or criminal, existing under the tax laws or other laws of
31 this state.

32 **SECTION 6.** Except as otherwise provided in sections 1 to 11 of this 2017 Act, a person
33 aggrieved by an act or determination of the Department of Revenue or its authorized agent
34 under sections 1 to 11 of this 2017 Act may appeal, within 90 days after the act or determi-
35 nation, to the Oregon Tax Court in the manner provided in ORS 305.404 to 305.560. These
36 appeal rights are the exclusive remedy available to determine the person's liability for the
37 tax imposed under sections 1 to 11 of this 2017 Act.

38 **SECTION 7.** The Department of Revenue shall administer and enforce sections 1 to 25
39 of this 2017 Act. The department is authorized to establish rules and procedures for the im-
40 plementation and enforcement of sections 1 to 25 of this 2017 Act that are consistent with
41 sections 1 to 25 of this 2017 Act.

42 **SECTION 8.** Except as otherwise provided in sections 1 to 11 of this 2017 Act or where
43 the context requires otherwise, the provisions of ORS chapters 305 and 314 as to the audit
44 and examination of returns, periods of limitation, determination of and notices of deficien-
45 cies, assessments, collections, liens, delinquencies, claims for refund and refunds, confer-

1 ences, appeals to the Oregon Tax Court, stays of collection pending appeal, confidentiality
2 of returns and the penalties relative thereto, and the procedures relating thereto, apply to
3 the determinations of taxes, penalties and interest under sections 1 to 11 of this 2017 Act.

4 **SECTION 9.** If the Department of Revenue believes that the collection of any tax imposed
5 under sections 1 to 11 of this 2017 Act or any amount of the tax required to be paid to the
6 state or of any determination will be jeopardized by delay, the department shall make a de-
7 termination of the tax or amount of tax required to be collected, noting that fact upon the
8 determination. The amount determined is immediately due and payable, and the department
9 shall assess the taxes, notify the person and proceed to collect the tax in the same manner
10 and using the same procedures as for the collection of income taxes under ORS 314.440.

11 **SECTION 10.** (1) All moneys received by the Department of Revenue under sections 1 to
12 25 of this 2017 Act shall be deposited in the State Treasury and credited to a suspense ac-
13 count established under ORS 293.445. The department may pay expenses for the adminis-
14 tration and enforcement of sections 1 to 25 of this 2017 Act out of moneys received from the
15 tax imposed under section 2 of this 2017 Act. Amounts necessary to pay administrative and
16 enforcement expenses are continuously appropriated to the department from the suspense
17 account.

18 (2) After the payment of administrative and enforcement expenses and refunds or credits
19 arising from erroneous overpayments, the department shall credit the balance of the moneys
20 received by the department under this section to the General Fund.

21 **SECTION 11.** Any consumer subject to the tax resulting from a distribution of inhalant
22 product and from whom the tax has not been paid shall, on or before the 20th day of the
23 month following receipt of the inhalant product, file with the Department of Revenue a re-
24 port of the amount of inhalant product received by the consumer in the preceding calendar
25 month in the detail and form as the department may prescribe, submitting with the report
26 the amount of tax due.

27 **SECTION 12.** Notwithstanding the confidentiality provisions of section 8 of this 2017 Act,
28 the Department of Revenue may disclose information received under sections 1 to 25 of this
29 2017 Act to the Oregon Health Authority to carry out the provisions of ORS 431A.175,
30 431A.183 and 433.835 to 433.875.

31 **SECTION 13.** (1) Any person engaging or seeking to engage in the sale of inhalant prod-
32 uct as an inhalant product distributor shall file an application for an inhalant product
33 distributor's license with the Department of Revenue. The application shall be on a form
34 prescribed by the department. An inhalant product distributor shall apply for and obtain a
35 license for each place of business at which the inhalant product distributor engages in the
36 business of distributing inhalant product. A fee may not be charged for the license. For the
37 purposes of this section, a vending machine in and of itself is not a place of business.

38 (2) A person may not engage in the business of distributing inhalant product in this state
39 without a license.

40 (3) A person filing an application under this section shall include with the application a
41 written statement certifying that the person will comply with the provisions of ORS 180.483
42 and 180.486 where applicable.

43 **SECTION 14.** (1) The Department of Revenue may require any person subject to sections
44 1 to 25 of this 2017 Act to place with the department an amount of security that the de-
45 partment determines is necessary to ensure compliance with sections 1 to 25 of this 2017 Act.

1 (2) The amount of the security shall be fixed by the department but, except as provided
 2 in subsection (3) of this section, may not be greater than twice the estimated tax liability
 3 of a person for the reporting period under sections 1 to 25 of this 2017 Act, determined in a
 4 manner the department considers proper.

5 (3) In the case of a person who, pursuant to section 16 of this 2017 Act, has appealed the
 6 decision of the department to suspend or revoke a license, the amount of the security may
 7 not be greater than twice the tax liability of the person for the reporting period under
 8 sections 1 to 25 of this 2017 Act, determined in a manner the department considers proper,
 9 or \$10,000, whichever is greater.

10 (4) The limitations provided in this section apply regardless of the type of security placed
 11 with the department. The required amount of the security may be increased or decreased
 12 by the department subject to the limitations provided in this section.

13 **SECTION 15.** (1) Upon receipt of a completed application, the statement required by
 14 section 13 of this 2017 Act and any security required by the Department of Revenue under
 15 sections 1 to 25 of this 2017 Act, the department shall issue an inhalant product distributor's
 16 license to an applicant. A separate license shall be issued for each place of business of the
 17 inhalant product distributor within this state. Each license issued by the department shall
 18 include an identification number for the license. A license is valid only for engaging in
 19 business as an inhalant product distributor at the place designated thereon, and the license
 20 shall at all times be conspicuously displayed at the place for which the license is issued. The
 21 license is not transferable and is valid until canceled, suspended or revoked.

22 (2) The department may not issue a license to an applicant if the department determines
 23 or has reason to believe that the applicant will not comply with the provisions of ORS
 24 chapter 323 or sections 1 to 25 of this 2017 Act any other state or federal tax law relating
 25 to cigarettes, tobacco products or inhalant product.

26 (3) Notwithstanding ORS 305.280, a decision by the department not to issue a license to
 27 an applicant may be appealed by the applicant to the magistrate division of the tax court
 28 within 30 days of the date of the decision of the department in the manner prescribed in ORS
 29 305.404 to 305.560.

30 (4) For purposes of this section, an application to renew an inhalant product distributor's
 31 license shall be considered the same as an application for an initial inhalant product
 32 distributor's license.

33 **SECTION 16.** (1) The Department of Revenue may cancel, suspend or revoke a license
 34 issued to an inhalant product distributor if the inhalant product distributor fails to:

35 (a) Pay any tax or penalty due under sections 1 to 25 of this 2017 Act;

36 (b) Otherwise comply with any provision of ORS chapter 323 or sections 1 to 25 of this
 37 2017 Act or any rule adopted thereunder; or

38 (c) Comply with any other state or federal tax law relating to cigarettes, tobacco pro-
 39 ducts or inhalant product.

40 (2) Notwithstanding ORS 305.280, a decision by the department to cancel, suspend or re-
 41 voke a license may be appealed by the inhalant product distributor to the magistrate division
 42 of the tax court within 30 days of the date of the decision of the department under subsection
 43 (1) of this section, in the manner provided in ORS 305.404 to 305.560.

44 **SECTION 17.** Notwithstanding section 8 of this 2017 Act, information on the license of
 45 an inhalant product distributor is not confidential. The Department of Revenue may publicly

1 disclose or publish a list of names of inhalant product distributors, along with any other in-
 2 formation set forth on a license.

3 **SECTION 18.** (1) A sales invoice for the wholesale sale of inhalant product in this state
 4 must contain the following:

5 (a) The name and address of the seller, the name and address of the purchaser, the date
 6 of the sale of the inhalant product, the quantity and product description of the inhalant
 7 product, the price paid for the inhalant product and any discount applied in determining the
 8 price paid for the inhalant product;

9 (b) The applicable license identification number for the inhalant product distributor;

10 (c) A certified statement by the inhalant product distributor that all taxes due under
 11 sections 1 to 11 of this 2017 Act have been or will be paid; and

12 (d) Any other information the Department of Revenue may prescribe by rule.

13 (2) An inhalant product distributor must provide a copy of the sales invoice to the pur-
 14 chaser of the inhalant product and the purchaser shall retain a copy of the invoice for five
 15 years following the date of purchase.

16 (3) Each purchaser that then sells the inhalant product to a subsequent purchaser shall
 17 provide the subsequent purchaser with a sales invoice that meets the requirements of this
 18 section.

19 (4)(a) A purchaser in possession of inhalant product that is unable to present a sales in-
 20 voice that meets the requirements of this section is presumed to be in possession of inhalant
 21 product for which the tax imposed under sections 1 to 11 of this 2017 Act has not been paid.

22 (b) In the case of a purchaser in possession of untaxed inhalant product, the tax is due
 23 immediately, along with a penalty equal to 100 percent of the tax due. Amounts due under
 24 this paragraph may be collected as provided in section 9 of this 2017 Act.

25 (c) If the purchaser in possession of untaxed inhalant product is a retail dealer, the De-
 26 partment of Revenue may impose a civil penalty for the possession of untaxed inhalant
 27 product. A civil penalty imposed under this paragraph may not exceed \$1,000 per violation.
 28 A penalty imposed under this paragraph may be appealed to the magistrate division of the
 29 tax court in the time and manner prescribed in ORS 305.404 to 305.560.

30 (5) This section does not apply to a consumer in possession of inhalant product with a
 31 wholesale sales price of less than \$50.

32 **SECTION 19.** (1)(a) A civil penalty may be imposed by the Department of Revenue on any
 33 person who violates any provision of sections 1 to 25 of this 2017 Act.

34 (b) A civil penalty imposed under this subsection may not exceed \$1,000 per violation.

35 (c) A penalty imposed under this subsection may be appealed to the magistrate division
 36 of the tax court in the time and manner prescribed in ORS 305.404 to 305.560.

37 (2) Any person who, in violation of section 22 (4) of this 2017 Act, prevents entry or ex-
 38 amination by the department shall be fined a maximum of \$500 per day for the first seven
 39 days and \$1,000 per each additional day thereafter until the department is allowed access.

40 (3) Any person required to obtain a license as an inhalant product distributor under
 41 sections 1 to 25 of this 2017 Act who knowingly engages in business as an inhalant product
 42 distributor without a license or after a license has been suspended or revoked is guilty of a
 43 Class C felony.

44 (4) Any person required to make, render, sign or verify any report under sections 1 to
 45 25 of this 2017 Act who makes any false report with the intent to defraud is guilty of a Class

1 C felony.

2 (5) Any person who knowingly violates any provision of sections 1 to 25 of this 2017 Act,
3 except as otherwise provided in this section, is guilty of a Class A misdemeanor.

4 (6) Any person who, with intent to defraud, makes, alters, forges or utters a false receipt
5 or invoice recording a sale of inhalant product in this state is guilty of a Class C felony.

6 (7) In addition to any other sentence the court may impose upon a conviction under this
7 section, the court may order the forfeiture of the instrumentalities used in violating sections
8 1 to 25 of this 2017 Act and the proceeds resulting from a violation of sections 1 to 25 of this
9 2017 Act.

10 **SECTION 20.** (1) A person commits the crime of unlawful distribution of inhalant product
11 if the person knowingly sells or distributes, possesses or transports for sale or distribution
12 or imports for sale or distribution inhalant product that does not comply with sections 1 to
13 25 of this 2017 Act.

14 (2) The offense of unlawful distribution of inhalant product is classified as follows:

15 (a) If the amount of inhalant product tax avoided in committing the offense over a 90-day
16 period totals less than \$1,000, the offense is a Class A misdemeanor.

17 (b) If the amount of inhalant product tax avoided in committing the offense over a 90-day
18 period totals \$1,000 or more, but less than \$5,000, the offense is a Class C felony classified
19 as crime category 3 of the sentencing guidelines grid of the Oregon Criminal Justice Com-
20 mission.

21 (c) If the amount of inhalant product tax avoided in committing the offense over a 90-day
22 period totals \$5,000 or more, but less than \$10,000, the offense is a Class C felony classified
23 as crime category 5 of the sentencing guidelines grid of the Oregon Criminal Justice Com-
24 mission.

25 (d) If the amount of inhalant product tax avoided in committing the offense over a 90-day
26 period totals \$10,000 or more, the offense is a Class B felony classified as crime category 7
27 of the sentencing guidelines grid of the Oregon Criminal Justice Commission.

28 (3) Inhalant product sold, distributed, possessed, transported or imported in violation of
29 subsection (1) of this section is contraband and subject to seizure and forfeiture. If seized
30 and forfeited under this subsection, the inhalant product shall be destroyed.

31 (4) In addition to any other sentence the court may impose upon a conviction under this
32 section, the court may order the forfeiture of the instrumentalities used in violating this
33 section and the proceeds resulting from a violation of this section.

34 (5) As used in this section, "inhalant product tax" means the amount of tax due under
35 sections 1 to 11 of this 2017 Act, if the tax was timely paid upon first distribution of the
36 inhalant product in this state.

37 **SECTION 21.** The penalties provided in sections 18 and 19 of this 2017 Act are additional
38 to all other penalties provided under sections 1 to 25 of this 2017 Act.

39 **SECTION 22.** (1) As used in this section, "premises" means a place of business:

40 (a) That is licensed under sections 1 to 25 of this 2017 Act; or

41 (b) That the Department of Revenue has reasonable cause to believe is used for the sale
42 or distribution of inhalant product.

43 (2) The Department of Revenue may enter and examine the premises of any person or
44 business at any time an individual is present. If the department seeks entry under this sec-
45 tion outside of regular business hours, this section requires that department personnel have

1 reasonable cause to believe that an individual is present in the premises. The department
2 may enter and examine:

3 (a) All areas used in or by the business operated at the premises, regardless of whether
4 patrons are permitted to be present in those areas; and

5 (b) Areas not located at the premises that reasonably appear to be used by the person
6 or business to store items listed in subsection (3) of this section.

7 (3) The department may examine:

8 (a) Business records related to the sale or distribution of inhalant product;

9 (b) Books, papers, records or equipment reasonably necessary to comply with the pro-
10 visions of sections 1 to 25 of this 2017 Act; and

11 (c) Inhalant product.

12 (4) A person may not interfere with or hinder an entry or examination by the department
13 under this section.

14 (5) This section does not authorize the department to enter or examine an area used for
15 residential purposes, unless the area is located on a lot or parcel not zoned for residential
16 use or where residential use is not allowed as a nonconforming use.

17 **SECTION 23.** (1) Any contraband inhalant product found by an authorized representative
18 of the Department of Revenue or any law enforcement agency may be immediately seized
19 and subject to forfeiture. If seized and forfeited under this subsection, the inhalant product
20 shall be destroyed.

21 (2) Notwithstanding ORS 305.280, a seizure and forfeiture made under this section may
22 be appealed to the magistrate division of the tax court within 30 days of the date of the sei-
23 zure in the manner prescribed in ORS 305.404 to 305.560.

24 **SECTION 24.** (1) To promote administrative and regulatory efficiency and compliance
25 with laws regulating or taxing inhalant product, the Department of Revenue may transmit
26 information obtained under sections 1 to 25 of this 2017 Act to the proper officers of gov-
27 ernmental units inside and outside Oregon that:

28 (a) Regulate or tax inhalant product or enforce laws relating to inhalant product; and

29 (b) Reciprocate in the exchange of relevant information.

30 (2) Governmental units that receive information pursuant to this section may use or
31 disclose the information solely for the purpose of administering or enforcing laws regulating
32 or taxing inhalant product.

33 **SECTION 25.** (1) The Director of the Department of Revenue is authorized to enter into
34 an inhalant product tax refund agreement with the governing body of any Indian reservation
35 in this state. The agreement may provide for a mutually agreed upon amount as a refund
36 to the governing body of any inhalant product tax collected under sections 1 to 11 of this 2017
37 Act in connection with the sale of inhalant product to Indians on the Indian reservation, or
38 the use, storage or consumption of inhalant product by Indians on the Indian reservation.
39 This provision is in addition to other laws allowing tax refunds.

40 (2) There is continuously appropriated to the director, from the suspense account estab-
41 lished under ORS 293.445 and section 10 of this 2017 Act, the amounts necessary to make the
42 refunds provided by subsection (1) of this section.

43 **SECTION 26.** ORS 131.602, as amended by section 6, chapter 47, Oregon Laws 2016, is amended
44 to read:

45 131.602. The crimes to which ORS 131.550 (12)(b) applies are:

- 1 (1) Bribe giving, as defined in ORS 162.015.
- 2 (2) Bribe receiving, as defined in ORS 162.025.
- 3 (3) Public investment fraud, as defined in ORS 162.117.
- 4 (4) Bribing a witness, as defined in ORS 162.265.
- 5 (5) Bribe receiving by a witness, as defined in ORS 162.275.
- 6 (6) Simulating legal process, as defined in ORS 162.355.
- 7 (7) Official misconduct in the first degree, as defined in ORS 162.415.
- 8 (8) Assisting another person to commit suicide, as defined in ORS 163.193.
- 9 (9) Custodial interference in the second degree, as defined in ORS 163.245.
- 10 (10) Custodial interference in the first degree, as defined in ORS 163.257.
- 11 (11) Buying or selling a person under 18 years of age, as defined in ORS 163.537.
- 12 (12) Using a child in a display of sexually explicit conduct, as defined in ORS 163.670.
- 13 (13) Encouraging child sexual abuse in the first degree, as defined in ORS 163.684.
- 14 (14) Encouraging child sexual abuse in the second degree, as defined in ORS 163.686.
- 15 (15) Encouraging child sexual abuse in the third degree, as defined in ORS 163.687.
- 16 (16) Possession of materials depicting sexually explicit conduct of a child in the first degree, as
17 defined in ORS 163.688.
- 18 (17) Possession of materials depicting sexually explicit conduct of a child in the second degree,
19 as defined in ORS 163.689.
- 20 (18) Theft in the second degree, as defined in ORS 164.045.
- 21 (19) Theft in the first degree, as defined in ORS 164.055.
- 22 (20) Aggravated theft in the first degree, as defined in ORS 164.057.
- 23 (21) Extortion, as defined in ORS 164.075.
- 24 (22) Theft by deception, as defined in ORS 164.085, if it is a felony or a Class A misdemeanor.
- 25 (23) Theft by receiving, as defined in ORS 164.095, if it is a felony or a Class A misdemeanor.
- 26 (24) Theft of services, as defined in ORS 164.125, if it is a felony or a Class A misdemeanor.
- 27 (25) Unauthorized use of a vehicle, as defined in ORS 164.135.
- 28 (26) Mail theft or receipt of stolen mail, as defined in ORS 164.162.
- 29 (27) Laundering a monetary instrument, as defined in ORS 164.170.
- 30 (28) Engaging in a financial transaction in property derived from unlawful activity, as defined
31 in ORS 164.172.
- 32 (29) Burglary in the second degree, as defined in ORS 164.215.
- 33 (30) Burglary in the first degree, as defined in ORS 164.225.
- 34 (31) Possession of a burglary tool or theft device, as defined in ORS 164.235.
- 35 (32) Unlawful entry into a motor vehicle, as defined in ORS 164.272.
- 36 (33) Arson in the second degree, as defined in ORS 164.315.
- 37 (34) Arson in the first degree, as defined in ORS 164.325.
- 38 (35) Computer crime, as defined in ORS 164.377.
- 39 (36) Robbery in the third degree, as defined in ORS 164.395.
- 40 (37) Robbery in the second degree, as defined in ORS 164.405.
- 41 (38) Robbery in the first degree, as defined in ORS 164.415.
- 42 (39) Unlawful labeling of a sound recording, as defined in ORS 164.868.
- 43 (40) Unlawful recording of a live performance, as defined in ORS 164.869.
- 44 (41) Unlawful labeling of a videotape recording, as defined in ORS 164.872.
- 45 (42) A violation of ORS 164.886.

- 1 (43)(a) Endangering aircraft in the first degree, as defined in ORS 164.885.
- 2 (b) Endangering aircraft in the second degree, as defined in ORS 164.885.
- 3 (44) Interference with agricultural operations, as defined in ORS 164.887.
- 4 (45) Forgery in the second degree, as defined in ORS 165.007.
- 5 (46) Forgery in the first degree, as defined in ORS 165.013.
- 6 (47) Criminal possession of a forged instrument in the second degree, as defined in ORS 165.017.
- 7 (48) Criminal possession of a forged instrument in the first degree, as defined in ORS 165.022.
- 8 (49) Criminal possession of a forgery device, as defined in ORS 165.032.
- 9 (50) Criminal simulation, as defined in ORS 165.037.
- 10 (51) Fraudulently obtaining a signature, as defined in ORS 165.042.
- 11 (52) Fraudulent use of a credit card, as defined in ORS 165.055.
- 12 (53) Negotiating a bad check, as defined in ORS 165.065.
- 13 (54) Possessing a fraudulent communications device, as defined in ORS 165.070.
- 14 (55) Unlawful factoring of a payment card transaction, as defined in ORS 165.074.
- 15 (56) Falsifying business records, as defined in ORS 165.080.
- 16 (57) Sports bribery, as defined in ORS 165.085.
- 17 (58) Sports bribe receiving, as defined in ORS 165.090.
- 18 (59) Misapplication of entrusted property, as defined in ORS 165.095.
- 19 (60) Issuing a false financial statement, as defined in ORS 165.100.
- 20 (61) Obtaining execution of documents by deception, as defined in ORS 165.102.
- 21 (62) A violation of ORS 165.543.
- 22 (63) Cellular counterfeiting in the third degree, as defined in ORS 165.577.
- 23 (64) Cellular counterfeiting in the second degree, as defined in ORS 165.579.
- 24 (65) Cellular counterfeiting in the first degree, as defined in ORS 165.581.
- 25 (66) Identity theft, as defined in ORS 165.800.
- 26 (67) A violation of ORS 166.190.
- 27 (68) Unlawful use of a weapon, as defined in ORS 166.220.
- 28 (69) A violation of ORS 166.240.
- 29 (70) Unlawful possession of a firearm, as defined in ORS 166.250.
- 30 (71) A violation of ORS 166.270.
- 31 (72) Unlawful possession of a machine gun, short-barreled rifle, short-barreled shotgun or
32 firearms silencer, as defined in ORS 166.272.
- 33 (73) A violation of ORS 166.275.
- 34 (74) Unlawful possession of armor piercing ammunition, as defined in ORS 166.350.
- 35 (75) A violation of ORS 166.370.
- 36 (76) Unlawful possession of a destructive device, as defined in ORS 166.382.
- 37 (77) Unlawful manufacture of a destructive device, as defined in ORS 166.384.
- 38 (78) Possession of a hoax destructive device, as defined in ORS 166.385.
- 39 (79) A violation of ORS 166.410.
- 40 (80) Providing false information in connection with a transfer of a firearm, as defined in ORS
41 166.416.
- 42 (81) Improperly transferring a firearm, as defined in ORS 166.418.
- 43 (82) Unlawfully purchasing a firearm, as defined in ORS 166.425.
- 44 (83) A violation of ORS 166.429.
- 45 (84) A violation of ORS 166.470.

- 1 (85) A violation of ORS 166.480.
- 2 (86) A violation of ORS 166.635.
- 3 (87) A violation of ORS 166.638.
- 4 (88) Unlawful paramilitary activity, as defined in ORS 166.660.
- 5 (89) A violation of ORS 166.720.
- 6 (90) Prostitution, as defined in ORS 167.007.
- 7 (91) Commercial sexual solicitation, as defined in ORS 167.008.
- 8 (92) Promoting prostitution, as defined in ORS 167.012.
- 9 (93) Compelling prostitution, as defined in ORS 167.017.
- 10 (94) Exhibiting an obscene performance to a minor, as defined in ORS 167.075.
- 11 (95) Unlawful gambling in the second degree, as defined in ORS 167.122.
- 12 (96) Unlawful gambling in the first degree, as defined in ORS 167.127.
- 13 (97) Possession of gambling records in the second degree, as defined in ORS 167.132.
- 14 (98) Possession of gambling records in the first degree, as defined in ORS 167.137.
- 15 (99) Possession of a gambling device, as defined in ORS 167.147.
- 16 (100) Possession of a gray machine, as defined in ORS 167.164.
- 17 (101) Cheating, as defined in ORS 167.167.
- 18 (102) Tampering with drug records, as defined in ORS 167.212.
- 19 (103) A violation of ORS 167.262.
- 20 (104) Research and animal interference, as defined in ORS 167.312.
- 21 (105) Animal abuse in the first degree, as defined in ORS 167.320.
- 22 (106) Aggravated animal abuse in the first degree, as defined in ORS 167.322.
- 23 (107) Animal neglect in the first degree, as defined in ORS 167.330.
- 24 (108) Interfering with an assistance, a search and rescue or a therapy animal, as defined in ORS
- 25 167.352.
- 26 (109) Involvement in animal fighting, as defined in ORS 167.355.
- 27 (110) Dogfighting, as defined in ORS 167.365.
- 28 (111) Participation in dogfighting, as defined in ORS 167.370.
- 29 (112) Unauthorized use of a livestock animal, as defined in ORS 167.385.
- 30 (113) Interference with livestock production, as defined in ORS 167.388.
- 31 (114) A violation of ORS 167.390.
- 32 (115) Participation in cockfighting, as defined in ORS 167.431.
- 33 (116) A violation of ORS 471.410.
- 34 (117) Failure to report missing precursor substances, as defined in ORS 475.955.
- 35 (118) Illegally selling drug equipment, as defined in ORS 475.960.
- 36 (119) Providing false information on a precursor substances report, as defined in ORS 475.965.
- 37 (120) Unlawful delivery of an imitation controlled substance, as defined in ORS 475.912.
- 38 (121) A violation of ORS 475.752, if it is a felony or a Class A misdemeanor.
- 39 (122) A violation of ORS 475.914, if it is a felony or a Class A misdemeanor.
- 40 (123) A violation of ORS 475.916.
- 41 (124) A violation of ORS 475.906, if it is a felony or a Class A misdemeanor.
- 42 (125) A violation of ORS 475.904.
- 43 (126) Misuse of an identification card, as defined in ORS 807.430.
- 44 (127) Unlawful production of identification cards, licenses, permits, forms or camera cards, as
- 45 defined in ORS 807.500.

- 1 (128) Transfer of documents for the purposes of misrepresentation, as defined in ORS 807.510.
- 2 (129) Using an invalid license, as defined in ORS 807.580.
- 3 (130) Permitting misuse of a license, as defined in ORS 807.590.
- 4 (131) Using another's license, as defined in ORS 807.600.
- 5 (132) Criminal driving while suspended or revoked, as defined in ORS 811.182.
- 6 (133) Aggravated driving while suspended or revoked, as defined in ORS 163.196.
- 7 (134) Driving while under the influence of intoxicants, as defined in ORS 813.010, when it is a
- 8 felony.
- 9 (135) Unlawful distribution of cigarettes, as defined in ORS 323.482.
- 10 (136) Unlawful distribution of tobacco products, as defined in ORS 323.632.
- 11 (137) A violation of ORS 180.440 (2) or 180.486 (2).
- 12 (138) A violation described in ORS 475.806 to 475.894, if it is a felony.
- 13 (139) Subjecting another person to involuntary servitude in the first degree, as defined in ORS
- 14 163.264.
- 15 (140) Subjecting another person to involuntary servitude in the second degree, as defined in ORS
- 16 163.263.
- 17 (141) Trafficking in persons, as defined in ORS 163.266.
- 18 (142) Luring a minor, as defined in ORS 167.057.
- 19 (143) Online sexual corruption of a child in the second degree, as defined in ORS 163.432.
- 20 (144) Online sexual corruption of a child in the first degree, as defined in ORS 163.433.
- 21 **(145) Unlawful distribution of inhalant product, as defined in section 20 of this 2017 Act.**
- 22 [(145)] **(146)** An attempt, conspiracy or solicitation to commit a crime in subsections (1) to
- 23 [(144)] **(145)** of this section if the attempt, conspiracy or solicitation is a felony or a Class A
- 24 misdemeanor.
- 25 **SECTION 27. Sections 1 to 25 of this 2017 Act apply to inhalant product sold on or after**
- 26 **January 1, 2018.**
- 27 **SECTION 28. (1) Sections 13 to 16 of this 2017 Act become operative on January 1, 2018.**
- 28 **(2) The Department of Revenue may take any action before the operative date specified**
- 29 **in subsection (1) of this section that is necessary to enable the department to exercise, on**
- 30 **and after the operative date specified in subsection (1) of this section, all the duties, func-**
- 31 **tions and powers conferred on the department by sections 13 to 16 of this 2017 Act.**
- 32 **SECTION 29. This 2017 Act takes effect on the 91st day after the date on which the 2017**
- 33 **regular session of the Seventy-ninth Legislative Assembly adjourns sine die.**

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