

House Bill 3467

Sponsored by Representatives HAYDEN, PARRISH, BUEHLER; Representatives BARRETO, HACK, KENNEMER, WITT

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 inhalant-form nicotine and inhalant delivery systems. Uses moneys from tax to pay for mental health and substance abuse disorder treatment and services.

Exempts retailers engaged primarily in sale of inhalants and inhalant delivery systems from Oregon indoor clean air requirements.

Transfers specified moneys to be used to pay for medical assistance. Discontinues certain payments to hospitals for quality measures related to health care transformation.

Increases cigarette tax and dedicates increase to medical assistance.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to health; creating new provisions; amending ORS 323.031, 323.457, 433.835 and 433.847 and sections 1, 2, 3, 7, 9, 10, 12, 13 and 14, chapter 736, Oregon Laws 2003, and section 15, chapter 389, Oregon Laws 2015; prescribing an effective date; and providing for revenue raising that requires approval by a three-fifths majority.

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

TAX ON INHALANT-FORM NICOTINE AND INHALANT DELIVERY SYSTEMS

SECTION 1. As used in sections 1 to 12 of this 2017 Act:

(1) **“Consumer” means a person who purchases an inhalant delivery system or inhalant-form nicotine in this state for the person’s use or consumption, or for any purpose other than reselling the inhalant delivery system or inhalant-form nicotine to another person.**

(2) **“Inhalant delivery system” has the meaning given that term in ORS 431A.175.**

(3) **“Inhalant-form nicotine” means nicotine that:**

(a) **Is in a form that allows the nicotine to be delivered into a person’s respiratory system;**

(b) **Is inhaled for the purpose of delivering the nicotine into a person’s respiratory system; and**

(c) **(A) Is not approved by, or emitted by a device approved by, the United States Food and Drug Administration for a therapeutic purpose; or**

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

(4) **“Inhalant wholesaler” means a person that:**

(a) **Holds inhalant-form nicotine or inhalant delivery systems for sale in this state to any person; or**

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) Makes the first sale of inhalant-form nicotine or an inhalant delivery system in this
2 state.

3 (5) “Nicotine retailer” means a person that is engaged in the business of selling or oth-
4 erwise dispensing inhalant-form nicotine to consumers. The term also includes the operators
5 of or recipients of revenue from all places such as smoke shops, cigar stores and vending
6 machines, where inhalant-form nicotine is made or stored for ultimate sale to consumers.

7 (6) “Sale” means any transfer, exchange or barter, in any manner or by any means, for
8 a consideration, and includes all sales made by any person. It includes a gift by a person
9 engaged in the business of selling inhalant-form nicotine, for advertising, as a means of
10 evading the provisions of sections 1 to 12 of this 2017 Act, or for any other purpose.

11 (7) “Taxpayer” includes a nicotine retailer or other person required to collect a tax im-
12 posed under section 2 of this 2017 Act.

13 (8) “Untaxed inhalant delivery system” means an inhalant delivery system for which the
14 tax required under section 2 of this 2017 Act has not been paid.

15 (9) “Wholesale price” means the price paid for an inhalant delivery system by a nicotine
16 retailer at the point of first sale in this state.

17 **SECTION 2.** (1)(a) A tax is hereby imposed upon the retail sale of inhalant-form nicotine
18 in this state. The tax imposed under this section is a direct tax on the consumer, for which
19 payment upon retail sale is required. The tax shall be collected at the point of sale of
20 inhalant-form nicotine by a nicotine retailer at the time at which the retail sale occurs.

21 (b) The tax imposed under this subsection shall be imposed at the rate of 5 cents on each
22 container of inhalant-form nicotine with a volume of two milliliters or less.

23 (2)(a) A tax is hereby imposed upon the wholesale sale of inhalant delivery systems and
24 inhalant-form nicotine. The tax shall be collected from a nicotine retailer or consumer at the
25 point of first sale in this state.

26 (b) The tax imposed under this subsection shall be imposed at the rate of 10 cents on
27 each:

- 28 (A) Container of inhalant-form nicotine with a volume greater than two milliliters; and
- 29 (B) Inhalant delivery system.

30 (3) Except as otherwise provided by the Department of Revenue by rule, the amount of
31 the tax shall be separately stated on an invoice, receipt or other similar document that the
32 inhalant wholesaler or nicotine retailer provides to the purchaser or consumer at the time
33 at which the sale occurs.

34 (4) A person may not knowingly sell, purchase, install, transfer or possess electronic
35 devices or software programs for the purposes of:

36 (a) Hiding or removing records of wholesale or retail sales of inhalant delivery systems
37 or inhalant-form nicotine; or

38 (b) Falsifying records of wholesale or retail sales of inhalant delivery systems or
39 inhalant-form nicotine.

40 (5) A nicotine retailer may not offer inhalant-form nicotine at no charge if the retail sale
41 of the inhalant-form nicotine is made in conjunction with the retail sale of any other item.

42 **SECTION 3.** (1) Except as otherwise provided in sections 1 to 12 of this 2017 Act, the tax
43 imposed upon the purchaser or consumer under section 2 of this 2017 Act shall be collected
44 at the point of sale and remitted by each wholesale or retail seller of inhalant delivery sys-
45 tems or inhalant-form nicotine that engages in the wholesale or retail sale of inhalant de-

1 livery systems or inhalant-form nicotine. The tax is a tax upon the inhalant wholesaler or
 2 nicotine retailer that is required to collect the tax, and the inhalant wholesaler or nicotine
 3 retailer is a taxpayer.

4 (2) The inhalant wholesaler or nicotine retailer shall file a return with the Department
 5 of Revenue on or before the last day of January, April, July and October of each year for the
 6 previous calendar quarter.

7 (3) The inhalant wholesaler or nicotine retailer shall pay the tax to the department in the
 8 form and manner prescribed by the department, but not later than with each quarterly re-
 9 turn, without regard to an extension granted under subsection (5) of this section.

10 (4) Inhalant wholesalers or nicotine retailers shall file the returns required under this
 11 section regardless of whether any tax is owed.

12 (5) For good cause, the department may extend the time for filing a return under this
 13 section. The extension may be granted at any time if a written request is filed with the de-
 14 partment during or prior to the period for which the extension may be granted. The depart-
 15 ment may not grant an extension of more than 30 days.

16 (6) Interest shall be added at the rate established under ORS 305.220 for each month, or
 17 fraction of a month, from the time the return was originally required to be filed to the time
 18 of payment.

19 (7) If an inhalant wholesaler or a nicotine retailer fails to file a return or pay the tax as
 20 required by this section, the department shall impose a penalty in the manner provided in
 21 ORS 314.400.

22 (8) Except as provided in subsections (9) and (10) of this section, the period prescribed
 23 for the department to allow or make a refund of any overpayment of tax paid under sections
 24 1 to 12 of this 2017 Act is as provided in ORS 314.415.

25 (9)(a) The department shall first apply any overpayment of tax by an inhalant wholesaler
 26 or a nicotine retailer to any tax imposed under sections 1 to 12 of this 2017 Act that is owed
 27 by the inhalant wholesaler or nicotine retailer.

28 (b) If after any offset against any delinquent amount the overpayment of tax remains
 29 greater than \$1,000, the remaining refund shall be applied as a credit against the next sub-
 30 sequent calendar quarter as an estimated payment.

31 (10) The department may not make a refund of, or credit, any overpayment of tax under
 32 sections 1 to 12 of this 2017 Act that was credited to the account of an inhalant wholesaler
 33 or a nicotine retailer under subsection (9)(b) of this section if the return for that tax period
 34 is not filed within three years after the due date of that return.

35 **SECTION 4.** (1) Every person who collects any amount under section 3 of this 2017 Act
 36 shall hold the same in trust for the State of Oregon and for the payment thereof to the De-
 37 partment of Revenue in the manner and at the time provided in section 3 of this 2017 Act.

38 (2) At any time an inhalant wholesaler or a nicotine retailer fails to remit any amount
 39 collected, the department may enforce collection by the issuance of a distraint warrant for
 40 the collection of the delinquent amount and all penalties, interest and collection charges ac-
 41 crued thereon. The warrant shall be issued, recorded and proceeded upon in the same man-
 42 ner and shall have the same force and effect as is prescribed with respect to warrants for
 43 the collection of delinquent income taxes.

44 (3)(a) In the case of an inhalant wholesaler or a nicotine retailer that is assessed pursu-
 45 ant to the provisions of ORS 305.265 (12) and 314.407 (1), the department may issue a notice

1 of liability to any officer, employee or member of the inhalant wholesaler or nicotine retailer
2 within three years from the time of assessment. Within 30 days from the date the notice of
3 liability is mailed to the officer, employee or member, the officer, employee or member shall
4 pay the assessment, plus penalties and interest, or advise the department in writing of ob-
5 jections to the liability and, if desired, request a conference. A conference shall be governed
6 by the provisions of ORS 305.265 pertaining to a conference requested from a notice of defi-
7 ciency.

8 (b) After a conference or, if no conference is requested, a determination of the issues
9 considering the written objections, the department shall mail the officer, employee or mem-
10 ber a conference letter affirming, canceling or adjusting the notice of liability. Within 90 days
11 from the date the conference letter is mailed to the officer, employee or member, the officer,
12 employee or member shall pay the assessment, plus penalties and interest, or appeal to the
13 Oregon Tax Court in the manner provided for an appeal from a notice of assessment.

14 (c) If the department does not receive payment or written objection to the notice of li-
15 ability within 30 days after the notice of liability was mailed, the notice of liability becomes
16 final. In that event, the officer, employee or member may appeal the notice of liability to the
17 tax court within 90 days after it became final in the manner provided for an appeal from a
18 notice of assessment.

19 (4)(a) In the case of a failure to file a return on the due date, governed by the provisions
20 of ORS 305.265 (10) and 314.400, the department, in addition to any action described in the
21 provisions of ORS 305.265 (10) and 314.400, may send notices of determination and assessment
22 to any officer, employee or member any time within three years after the assessment. The
23 time of assessment against the officer, employee or member is 30 days after the date the
24 notice of determination and assessment is mailed. Within 30 days from the date the notice
25 of determination and assessment is mailed to the officer, employee or member, the officer,
26 employee or member shall pay the assessment, plus penalties and interest, or advise the
27 department in writing of objections to the assessment and, if desired, request a conference.
28 A conference shall be governed by the provisions of ORS 305.265 pertaining to a conference
29 requested from a notice of deficiency.

30 (b) After a conference or, if no conference is requested, a determination of the issues
31 considering the written objections, the department shall mail the officer, employee or mem-
32 ber a conference letter affirming, canceling or adjusting the notice of determination and as-
33 sessment. Within 90 days from the date the conference letter is mailed to the officer,
34 employee or member, the officer, employee or member shall pay the assessment, plus pen-
35 alties and interest, or appeal in the manner provided for an appeal from a notice of assess-
36 ment.

37 (c) If the department does not receive payment or written objection to the notice of de-
38 termination and assessment within 30 days after the notice of determination and assessment
39 was mailed, the notice of determination and assessment becomes final. In that event, the
40 officer, employee or member may appeal the notice of determination and assessment to the
41 tax court within 90 days after it became final in the manner provided for an appeal from a
42 notice of assessment.

43 (5)(a) More than one officer or employee of a corporation may be held jointly and se-
44 verally liable for payment of taxes.

45 (b) Notwithstanding the confidentiality provisions of section 11 of this 2017 Act, if more

1 than one officer or employee of a corporation may be held jointly and severally liable for
 2 payment of taxes, the department may require any or all of the officers, members or em-
 3 ployees who may be held liable to appear before the department for a joint determination of
 4 liability. The department shall notify each officer, member or employee of the time and place
 5 set for the determination of liability.

6 (c) Each person notified of a joint determination under this subsection shall appear and
 7 present such information as is necessary to establish that person's liability or nonliability
 8 for payment of taxes to the department. If a person who was notified fails to appear, the
 9 department shall make its determination on the basis of all the information and evidence
 10 presented. The department's determination is binding on all persons notified and required to
 11 appear under this subsection.

12 (d)(A) If an appeal is taken to the tax court pursuant to section 11 of this 2017 Act by
 13 any person determined to be liable for unpaid taxes under this subsection, each person re-
 14 quired to appear before the department under this subsection shall be impleaded by the
 15 plaintiff. The department may implead any officer, employee or member who may be held
 16 jointly and severally liable for the payment of taxes. Each person impleaded under this pa-
 17 ragraph shall be made a party to the action before the tax court and shall make available to
 18 the tax court the information that was presented before the department, as well as other
 19 information that may be presented to the tax court.

20 (B) The tax court may determine that one or more persons impleaded under this para-
 21 graph are liable for unpaid taxes without regard to any earlier determination by the depart-
 22 ment that an impleaded person was not liable for unpaid taxes.

23 (C) If a person required to appear before the tax court under this subsection fails or re-
 24 fuses to appear or bring such information in part or in whole, or is outside the jurisdiction
 25 of the tax court, the tax court shall make its determination on the basis of all the evidence
 26 introduced. Notwithstanding section 11 of this 2017 Act, the evidence constitutes a public
 27 record and shall be available to the parties and the tax court. The determination of the tax
 28 court is binding on all persons made parties to the action under this subsection.

29 (e) This section may not be construed to preclude a determination by the department or
 30 the tax court that more than one officer, employee or member is jointly and severally liable
 31 for unpaid taxes.

32 **SECTION 5.** (1) An inhalant wholesaler or a nicotine retailer shall keep receipts, invoices
 33 and other pertinent records related to wholesale and retail sales of inhalant delivery systems
 34 and inhalant-form nicotine in the form required by the Department of Revenue. Each record
 35 shall be preserved for five years from the time to which the record relates, or for as long
 36 as the inhalant wholesaler or nicotine retailer retains the inhalant delivery systems or
 37 inhalant-form nicotine to which the record relates, whichever is later. During the retention
 38 period and at any time prior to the destruction of records, the department may give written
 39 notice to the inhalant wholesaler or nicotine retailer not to destroy records described in the
 40 notice without written permission of the department. Notwithstanding any other provision
 41 of law, the department shall preserve reports and returns filed with the department for at
 42 least five years.

43 (2) The department or its authorized representative, upon oral or written demand, may
 44 make examinations of the books, papers, records and equipment of persons making wholesale
 45 or retail sales of inhalant delivery systems or inhalant-form nicotine and any other investi-

1 gations the department deems necessary to carry out the provisions of sections 1 to 12 of
2 this 2017 Act.

3 **SECTION 6.** (1) The Department of Revenue has authority, by order or subpoena to be
4 served with the same force and effect and in the same manner as a subpoena is served in a
5 civil action in the circuit court, or the Oregon Tax Court, to require the production at any
6 time and place the department designates of any books, papers, accounts or other informa-
7 tion necessary to carry out sections 1 to 12 of this 2017 Act. The department may require
8 the attendance of any person having knowledge in the premises, and may take testimony and
9 require proof material for the information, with power to administer oaths to the person.

10 (2) If a person fails to comply with a subpoena or order of the department or to produce
11 or permit the examination or inspection of any books, papers, records and equipment perti-
12 nent to an investigation or inquiry under sections 1 to 12 of this 2017 Act, or to testify to
13 any matter regarding which the person is lawfully interrogated, the department may apply
14 to the Oregon Tax Court or to the circuit court of the county in which the person resides
15 or where the person is located for an order to the person to attend and testify, or otherwise
16 to comply with the demand or request of the department. The department shall apply to the
17 court by ex parte motion, upon which the court shall make an order requiring the person
18 against whom the motion is directed to comply with the request or demand of the depart-
19 ment within 10 days after the service of the order, or within the additional time granted by
20 the court, or to justify the failure within that time. The order shall be served upon the per-
21 son to whom it is directed in the manner required by this state for service of process, which
22 service is required to confer jurisdiction upon the court. Failure to obey any order issued
23 by the court under this section is contempt of court. The remedy provided by this section is
24 in addition to other remedies, civil or criminal, existing under the tax laws or other laws of
25 this state.

26 **SECTION 7.** Except as otherwise provided in sections 1 to 12 of this 2017 Act, a person
27 aggrieved by an act or determination of the Department of Revenue or its authorized agent
28 under sections 1 to 12 of this 2017 Act may appeal, within 90 days after the act or determi-
29 nation, to the Oregon Tax Court in the manner provided in ORS 305.404 to 305.560. These
30 appeal rights are the exclusive remedy available to determine the person's liability for the
31 tax imposed under section 2 of this 2017 Act.

32 **SECTION 8.** (1)(a) When an amount represented by a nicotine retailer at retail to a
33 consumer as constituting the tax imposed under section 2 of this 2017 Act is computed upon
34 an amount that is not taxable or is in excess of the taxable amount and is actually paid by
35 the consumer to the nicotine retailer, the excess tax paid shall be returned by the nicotine
36 retailer to the consumer upon written notification by the Department of Revenue or the
37 consumer.

38 (b) The written notification must contain information necessary to determine the validity
39 of the consumer's claim.

40 (2) If the nicotine retailer does not return the excess tax within 60 days after mailing of
41 the written notification required under subsection (1) of this section, the consumer may ap-
42 peal to the department for a refund of the amount of the excess tax, in the manner and
43 within the time allowed under rules adopted by the department.

44 (3) If excess tax is returned to the consumer by the department, the department may
45 issue a notice of deficiency for the excess tax to the nicotine retailer in the manner provided

1 under ORS 305.265.

2 **SECTION 9.** For the purpose of compensating nicotine retailers for expenses incurred in
 3 collecting the tax imposed under section 2 of this 2017 Act, each nicotine retailer is permitted
 4 to deduct and retain two percent of the amount of taxes that are collected by the nicotine
 5 retailer from all retail sales of inhalant-form nicotine conducted by the nicotine retailer.

6 **SECTION 10.** The Department of Revenue shall administer and enforce sections 1 to 12
 7 of this 2017 Act. The department is authorized to establish rules and procedures for the im-
 8 plementation and enforcement of sections 1 to 12 of this 2017 Act that are consistent with
 9 sections 1 to 12 of this 2017 Act and that the department considers necessary and appropriate
 10 to administer and enforce sections 1 to 12 of this 2017 Act.

11 **SECTION 11.** Except as otherwise provided in sections 1 to 12 of this 2017 Act or where
 12 the context requires otherwise, the provisions of ORS chapters 305 and 314 as to the audit
 13 and examination of returns, periods of limitation, determination of and notices of deficien-
 14 cies, assessments, collections, liens, delinquencies, claims for refund and refunds, confer-
 15 ences, appeals to the Oregon Tax Court, stays of collection pending appeal, confidentiality
 16 of returns and the penalties relative thereto, and the procedures relating thereto, apply to
 17 the determinations of taxes, penalties and interest under sections 1 to 12 of this 2017 Act.

18 **SECTION 12.** (1) All moneys received by the Department of Revenue under sections 1 to
 19 12 of this 2017 Act shall be deposited in the State Treasury and credited to a suspense ac-
 20 count established under ORS 293.445. The department may pay expenses for the adminis-
 21 tration and enforcement of sections 1 to 12 of this 2017 Act out of moneys received from the
 22 tax imposed under section 2 of this 2017 Act. Amounts necessary to pay administrative and
 23 enforcement expenses are continuously appropriated to the department from the suspense
 24 account.

25 (2) After the payment of administrative and enforcement expenses and refunds or credits
 26 arising from erroneous overpayments, the department shall transfer the balance of the
 27 moneys received by the department under this section to the Mental Health Services Fund
 28 established in section 13 of this 2017 Act.

29 **SECTION 13.** The Mental Health Services Fund is established in the State Treasury sep-
 30 arate and apart from the General Fund. The Mental Health Services Fund consists of moneys
 31 transferred to the fund by the Department of Revenue under section 12 of this 2017 Act.
 32 Moneys in the fund are continuously appropriated to the Oregon Health Authority to be used
 33 to pay for behavioral health treatment and other services for residents of this state who
 34 have mental illness or substance abuse disorders.

35
 36 **RECONCILIATION OF ADDRESSES OF MEDICAL ASSISTANCE**
 37 **RECIPIENTS WITH NATIONAL CHANGE OF ADDRESS PRODUCT**
 38

39 **SECTION 14.** At regular intervals of not less than six months, the Oregon Health Au-
 40 thority shall reconcile the addresses listed for individuals receiving medical assistance with
 41 the National Change of Address product licensed by the United States Postal Service to de-
 42 termine if any recipients of medical assistance have moved out of this state. If the recon-
 43 ciliation shows that a recipient of medical assistance has moved out of this state, the
 44 authority shall immediately take appropriate actions to terminate the recipient's medical
 45 assistance.

**EXEMPTION OF VAPOR SHOPS FROM
OREGON INDOOR CLEAN AIR ACT**

SECTION 15. ORS 433.835 is amended to read:

433.835. As used in ORS 433.835 to 433.875:

(1) “Cigar bar” means a business that:

(a) Has on-site sales of cigars as defined in ORS 323.500;

(b) Has a humidor on the premises;

(c) Allows the smoking of cigars on the premises but prohibits the smoking, aerosolizing or vaporizing of other inhalants on the premises;

(d) Has been issued and operates under a full on-premises sales license issued under ORS 471.175;

(e) Prohibits persons under 21 years of age from entering the premises and posts notice of the prohibition;

(f) Does not offer video lottery games as authorized under ORS 461.217;

(g) Has a maximum seating capacity of 40 persons;

(h) Has a ventilation system that exhausts smoke from the business and is designed and terminated in accordance with the state building code standards for the occupancy classification in use; and

(i) Requires all employees to read and sign a document that explains the dangers of exposure to secondhand smoke.

(2) “Inhalant” means nicotine, a cannabinoid or any other substance that:

(a) Is in a form that allows the nicotine, cannabinoid or substance to be delivered into a person’s respiratory system;

(b) Is inhaled for the purpose of delivering the nicotine, cannabinoid or other substance into a person’s respiratory system; and

(c)(A) Is not approved by, or emitted by a device approved by, the United States Food and Drug Administration for a therapeutic purpose; or

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

(3) “Inhalant delivery system” has the meaning given that term in ORS 431A.175.

[(3)(a)] **(4)(a)** “Place of employment” means an enclosed area under the control of a public or private employer, including work areas, employee lounges, vehicles that are operated in the course of an employer’s business and that are not operated exclusively by one employee, rest rooms, conference rooms, classrooms, cafeterias, hallways, meeting rooms, elevators and stairways.

(b) “Place of employment” does not include a private residence unless it is used as a child care facility as defined in ORS 329A.250 or a facility providing adult day care as defined in ORS 410.490.

[(4)] **(5)** “Public place” means an enclosed area open to the public.

[(5)] **(6)** “Smoke shop” means a business that is certified with the Oregon Health Authority as a smoke shop pursuant to the rules adopted under ORS 433.847.

[(6)] **(7)** “Smoking instrument” means any cigar, cigarette, pipe or other instrument used to smoke tobacco, marijuana or any other inhalant.

SECTION 16. ORS 433.847 is amended to read:

433.847. (1) The Oregon Health Authority shall adopt rules establishing a certification system for smoke shops. *[In adopting such rules, the authority shall prohibit the smoking, aerosolizing or*

1 *vaporizing of inhalants that are not tobacco products in smoke shops.]*

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

3 (a)(A) Is primarily engaged in the sale, for off-premises consumption or use, of tobacco products
4 and smoking instruments used to smoke tobacco products **or inhalants or inhalant delivery sys-**
5 **tems**, with at least 75 percent of the gross revenues of the business resulting from such sales;

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

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

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

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

13 (F) Has a maximum seating capacity of four persons; and

14 (G) Allows the smoking of tobacco product samples **or the vaporizing or aerosolizing of**
15 **inhalants** only for the purpose of making retail purchase decisions;

16 (b) On December 31, 2008:

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

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

19 (ii) Had a ventilation system that exhausted smoke **and vapor** from the business and was de-
20 signed and terminated in accordance with the state building code standards for the occupancy
21 classification in use; or

22 (c)(A) Was certified as a smoke shop under ORS 433.835, as in effect immediately before June
23 30, 2011, by the authority on or before December 31, 2012; and

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

26 (3) A smoke shop certified under subsection (2)(b) of this section must renew the smoke shop
27 certification every five years by demonstrating to the satisfaction of the authority that the smoke
28 shop:

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

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

31 (ii) Has a ventilation system that exhausts smoke **and vapor** from the business and is designed
32 and terminated in accordance with the state building code standards for the occupancy classification
33 in use; and

34 (b) Allows the smoking of cigarettes **or the vaporizing or aerosolizing of inhalants** only if at
35 least 75 percent of the gross revenues of the business results from the sale of cigarettes.

36 (4) A smoke shop certified under subsection (2)(c) of this section must renew the smoke shop
37 certification every five years by demonstrating to the satisfaction of the authority that the smoke
38 shop:

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

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

42 (5) The owner of a smoke shop certified under subsection (2)(b) or (c) of this section may
43 transfer the certification with ownership of the smoke shop if the transfer is made in accordance
44 with rules adopted by the authority.

45 (6) A smoke shop certified under subsection (2)(b) of this section may continue to be certified

1 in a new location under subsection (2)(b) of this section if:

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

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

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

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

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

8 (ii) Has a ventilation system that exhausts smoke **and vapor** from the business and is designed
9 and terminated in accordance with the state building code standards for the occupancy classification
10 in use; and

11 (C) Allows the smoking of cigarettes **or the vaporizing or aerosolizing of inhalants** only if
12 at least 75 percent of the gross revenues of the business results from the sale of cigarettes.

13 (7) A smoke shop certified under subsection (2)(c) of this section may continue to be certified
14 in a new location under subsection (2)(c) of this section if:

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

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

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

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 (8) Rules adopted under this section must provide that, in order to obtain a smoke shop certi-
23 fication, a business must agree to allow the authority to make unannounced inspections of the
24 business to determine compliance with ORS 433.835 to 433.875.

25
26 **FUNDING FOR MEDICAL ASSISTANCE**

27
28 **SECTION 17. The Oregon Health Authority shall terminate payments of the administra-**
29 **tive expense portion of the hospital reimbursement adjustment made to coordinated care**
30 **organizations out of moneys in the Hospital Quality Assurance Fund established in section**
31 **9, chapter 736, Oregon Laws 2003.**

32 **SECTION 18. Section 17 of this 2017 Act applies to payments of the administrative ex-**
33 **penditure portion of the hospital reimbursement adjustment made to coordinated care organ-**
34 **izations on and after July 1, 2017. The Oregon Health Authority may recover from**
35 **coordinated care organizations payments for the administrative expense portion of the hos-**
36 **pital reimbursement adjustment made on and after July 1, 2017.**

37 **SECTION 19. (1) From the unexpended balance of the Health Insurance Exchange Fund**
38 **established in ORS 741.102, \$12 million is transferred to the Oregon Health Authority Fund**
39 **established in ORS 413.101.**

40 **(2) From the unexpended balance of the Hospital Quality Assurance Fund established in**
41 **section 9, chapter 736, Oregon Laws 2003, \$72 million is transferred to the Oregon Health**
42 **Authority Fund.**

43 **(3) From the unexpended balance of the Health Care Trust Fund established in ORS**
44 **293.540, on:**

45 **(a) January 1, 2018, \$25 million is transferred to the Oregon Health Authority Fund.**

1 (b) January 1, 2019, \$25 million is transferred to the Oregon Health Authority Fund.

2 (4) Any moneys remaining in the Oregon Medical Insurance Pool Account established in
 3 ORS 735.612 on the effective date of this 2017 Act are transferred to the Oregon Health Au-
 4 thority Fund.

5 (5) All moneys transferred to the Oregon Health Authority Fund under this section shall
 6 be used by the Oregon Health Authority to provide medical assistance under ORS chapter
 7 414.

8 **SECTION 20.** If the actual decrease in the medical assistance caseload on the operative
 9 date of this section specified in section 42 of this 2017 Act is greater than the decrease in the
 10 medical assistance caseload projected by the Oregon Health Authority as of June 30, 2017,
 11 up to \$85 million of the difference between the actual caseload savings and the projected
 12 caseload savings are transferred to the Oregon Health Authority Fund established in ORS
 13 413.101.

14 **SECTION 21.** (1) No later than December 1, 2017, the Oregon Health Authority shall
 15 submit for approval by the Centers for Medicare and Medicaid Services an amendment to the
 16 Medicaid state plan to permit the hospital assessment under section 2, chapter 736, Oregon
 17 Laws 2003, to be imposed at the rate of six percent.

18 (2) No later than December 15, 2017, the authority shall report to the interim committees
 19 of the Legislative Assembly related to health the status of the amendment to the Medicaid
 20 state plan described in subsection (1) of this section.

21 **SECTION 22.** Section 1, chapter 736, Oregon Laws 2003, as amended by section 34, chapter 792,
 22 Oregon Laws 2009, is amended to read:

23 **Sec. 1.** As used in sections 1 to 9, chapter 736, Oregon Laws 2003:

24 (1) "Charity care" means costs for providing inpatient or outpatient care services free of charge
 25 or at a reduced charge because of the indigence or lack of health insurance of the patient receiving
 26 the care services.

27 (2) "Contractual adjustments" means the difference between the amounts charged based on the
 28 hospital's full established charges and the amount received or due from the payor.

29 (3) "**Health district hospital**" means a hospital created by a health district under ORS
 30 440.315 to 440.410.

31 [(3)] (4)(a) "Hospital" [*has the meaning given that term in ORS 442.015*] means a hospital li-
 32 censed under ORS chapter 441.

33 (b) "Hospital" does not include:

34 (A) Special inpatient care facilities;

35 (B) Hospitals that provide only psychiatric care;

36 (C) Hospitals providing care to children at no charge; and

37 (D) Public hospitals.

38 [(4)] (5) "Net revenue":

39 (a) Means the total amount of charges for inpatient or outpatient care provided by the hospital
 40 to patients, less charity care, bad debts and contractual adjustments;

41 (b) Does not include revenue derived from sources other than inpatient or outpatient operations,
 42 including but not limited to interest and guest meals; and

43 (c) Does not include any revenue that is taken into account in computing a long term care fa-
 44 cility assessment under sections 15 to 22, **24 and 29**, chapter 736, Oregon Laws 2003.

45 [(5)] "*Waivered hospital*" means a type A or type B hospital, as described in ORS 442.470, a hos-

1 *pital that provides only psychiatric care or a hospital identified by the Department of Human Services*
 2 *as appropriate for inclusion in the application described in section 4, chapter 736, Oregon Laws*
 3 *2003.]*

4 **(6) “Type A hospital” has the meaning given that term in ORS 442.470.**

5 **(7) “Type B hospital” has the meaning given that term in ORS 442.470.**

6 **SECTION 23.** Section 2, chapter 736, Oregon Laws 2003, as amended by section 1, chapter 780,
 7 Oregon Laws 2007, section 51, chapter 828, Oregon Laws 2009, section 17, chapter 867, Oregon Laws
 8 2009, section 2, chapter 608, Oregon Laws 2013, and section 1, chapter 16, Oregon Laws 2015, is
 9 amended to read:

10 **Sec. 2.** (1) An assessment is imposed on the net revenue of each hospital in this state [*that is*
 11 *not a waived hospital*]. **Except as provided in subsection (2) of this section,** the assessment
 12 shall be imposed at a rate [*determined by the Director of the Oregon Health Authority by rule that is*
 13 *the director’s best estimate of the rate needed to fund the services and costs identified in section 9,*
 14 *chapter 736, Oregon Laws 2003*] **of 5.5 percent.** [*The rate of assessment shall be imposed on the net*
 15 *revenue of each hospital subject to assessment. The director shall consult with representatives of hos-*
 16 *pitals before setting the assessment.*]

17 **(2)(a) The director may impose a rate lower than 5.5 percent on type A hospitals, type**
 18 **B hospitals and health district hospitals to take into account the hospital’s financial position.**

19 **(b) If the director reduces the rate of assessment under this subsection, the director may**
 20 **increase the assessment imposed under subsection (1) of this section to 5.7 percent for hos-**
 21 **pitals other than type A hospitals, type B hospitals and health district hospitals.**

22 [(2)] **(3)** The assessment shall be reported on a form prescribed by the Oregon Health Authority
 23 and shall contain the information required to be reported by the authority. The assessment form
 24 shall be filed with the authority on or before the 75th day following the end of the calendar quarter
 25 for which the assessment is being reported. Except as provided in subsection [(6)] **(5)** of this section,
 26 the hospital shall pay the assessment at the time the hospital files the assessment report. The pay-
 27 ment shall accompany the report.

28 [(3)(a) *To the extent permitted by federal law, aggregate assessments imposed under this section*
 29 *may not exceed the total of the following amounts received by the hospitals that are reimbursed by*
 30 *Medicare based on diagnostic related groups:*]

31 [(A) *30 percent of payments made to the hospitals on a fee-for-service basis by the authority for*
 32 *inpatient hospital services;*]

33 [(B) *41 percent of payments made to the hospitals on a fee-for-service basis by the authority for*
 34 *outpatient hospital services; and*]

35 [(C) *Payments made to the hospitals using a payment methodology established by the authority that*
 36 *advances the goals of the Oregon Integrated and Coordinated Health Care Delivery System described*
 37 *in ORS 414.620 (3).*]

38 [(b) *Notwithstanding paragraph (a) of this subsection, aggregate assessments imposed on or after*
 39 *July 1, 2015, may exceed the total of the amounts described in paragraph (a) of this subsection to the*
 40 *extent necessary to compensate for any reduction of funding in the legislatively adopted budget for*
 41 *hospital services under ORS 414.631, 414.651 and 414.688 to 414.745.*]

42 **(4)** [Notwithstanding subsection (3) of this section,] A hospital is not guaranteed that any addi-
 43 tional moneys paid to the hospital in the form of payments for services shall equal or exceed the
 44 amount of the assessment paid by the hospital.

45 [(5) *Hospitals operated by the United States Department of Veterans Affairs and pediatric specialty*

1 *hospitals providing care to children at no charge are exempt from the assessment imposed under this*
 2 *section.*]

3 [(6)(a)] **(5)(a)** The authority shall develop a schedule for collection of the assessment for the
 4 calendar quarter ending September 30, [2019] **2021**, that will result in the collection occurring be-
 5 tween December 15, [2019] **2021**, and the time all Medicaid cost settlements are finalized for that
 6 calendar quarter.

7 (b) The authority shall prescribe by rule criteria for late payment of assessments.

8 **SECTION 24.** Section 3, chapter 736, Oregon Laws 2003, as amended by section 3, chapter 608,
 9 Oregon Laws 2013, is amended to read:

10 **Sec. 3.** [(1)] Notwithstanding section 2, chapter 736, Oregon Laws 2003, the Director of the
 11 Oregon Health Authority shall reduce the rate of assessment imposed under section 2, chapter 736,
 12 Oregon Laws 2003, to the maximum rate allowed under federal law if the reduction is required to
 13 comply with federal law.

14 [(2) *If federal law requires a reduction in the rate of assessments, the director shall, after consult-*
 15 *ing with representatives of the hospitals that are subject to the assessments, first reduce the distribution*
 16 *of moneys described in section 9 (2)(d), chapter 736, Oregon Laws 2003, by a corresponding amount.*]

17 **SECTION 25.** Section 7, chapter 736, Oregon Laws 2003, as amended by section 5, chapter 608,
 18 Oregon Laws 2013, is amended to read:

19 **Sec. 7.** The Oregon Health Authority may audit the records of any hospital in this state to de-
 20 termine compliance with sections 1 to 9, chapter 736, Oregon Laws 2003[, *and section 1 of this 2013*
 21 *Act*]. The authority may audit records at any time for a period of five years following the date an
 22 assessment is due to be reported and paid under section 2, chapter 736, Oregon Laws 2003.

23 **SECTION 26.** Section 9, chapter 736, Oregon Laws 2003, as amended by section 2, chapter 757,
 24 Oregon Laws 2005, section 2, chapter 780, Oregon Laws 2007, section 53, chapter 828, Oregon Laws
 25 2009, section 19, chapter 867, Oregon Laws 2009, section 59, chapter 602, Oregon Laws 2011, and
 26 section 7, chapter 608, Oregon Laws 2013, is amended to read:

27 **Sec. 9.** (1) The Hospital Quality Assurance Fund is established in the State Treasury, separate
 28 and distinct from the General Fund. Interest earned by the Hospital Quality Assurance Fund shall
 29 be credited to the Hospital Quality Assurance Fund.

30 (2) Amounts in the Hospital Quality Assurance Fund are continuously appropriated to the
 31 Oregon Health Authority for the purpose of:

32 (a) Paying refunds due under section 6, chapter 736, Oregon Laws 2003;

33 (b) Funding [*services under ORS 414.631, 414.651 and 414.688 to 414.750*] **medical assistance**
 34 **under ORS chapter 414**, including but not limited to increasing reimbursement rates for inpatient
 35 and outpatient hospital services [*under ORS 414.631, 414.651 and 414.688 to 414.750*];

36 (c) Making payments described in section 2 (3)(a)(C), chapter 736, Oregon Laws 2003;

37 (d) Making distributions, as described in section 1 (4), **chapter 608, Oregon Laws 2013** [*of this*
 38 *2013 Act*], of an amount of moneys equal to the federal financial participation received from one
 39 percentage point of the rate assessed under section 2, chapter 736, Oregon Laws 2003; [*and*]

40 (e) **Making qualified directed payments to coordinated care organizations to be used to**
 41 **provide to type A hospitals, type B hospitals and health district hospitals additional re-**
 42 **imbursement that:**

43 (A) **Is based on the utilization and delivery of services;**

44 (B) **Is expended equally, using the same terms of performance for all type A hospitals**
 45 **and type B hospitals;**

1 (C) Is expected to advance at least one of the goals of the state’s quality strategy;

2 (D) Is evaluated on the degree to which the payments advance at least one of the goals
3 of the state’s quality strategy;

4 (E) Does not require a hospital to enter into an intergovernmental transfer agreement;
5 and

6 (F) Is not renewed automatically; and

7 [(e)] (f) Paying administrative costs incurred by the authority to administer [*section 1 of this 2013*
8 *Act and*] the assessments imposed under section 2, chapter 736, Oregon Laws 2003.

9 (3) [*Except for assessments imposed pursuant to section 2 (3)(b), chapter 736, Oregon Laws 2003,*]
10 The authority may not use moneys from the Hospital Quality Assurance Fund to supplant, directly
11 or indirectly, other moneys made available to fund services described in subsection (2) of this sec-
12 tion.

13 **SECTION 27.** Section 9, chapter 736, Oregon Laws 2003, as amended by section 2, chapter 757,
14 Oregon Laws 2005, section 2, chapter 780, Oregon Laws 2007, section 53, chapter 828, Oregon Laws
15 2009, section 19, chapter 867, Oregon Laws 2009, section 59, chapter 602, Oregon Laws 2011, section
16 7, chapter 608, Oregon Laws 2013, and section 26 of this 2017 Act, is amended to read:

17 **Sec. 9.** (1) The Hospital Quality Assurance Fund is established in the State Treasury, separate
18 and distinct from the General Fund. Interest earned by the Hospital Quality Assurance Fund shall
19 be credited to the Hospital Quality Assurance Fund.

20 (2) Amounts in the Hospital Quality Assurance Fund are continuously appropriated to the
21 Oregon Health Authority for the purpose of:

22 (a) Paying refunds due under section 6, chapter 736, Oregon Laws 2003;

23 (b) Funding medical assistance under ORS chapter 414, including but not limited to increasing
24 reimbursement rates for inpatient and outpatient hospital services;

25 [(c) *Making payments described in section 2 (3)(a)(C), chapter 736, Oregon Laws 2003;*]

26 [(d) *Making distributions, as described in section 1 (4), chapter 608, Oregon Laws 2013, of an*
27 *amount of moneys equal to the federal financial participation received from one percentage point of the*
28 *rate assessed under section 2, chapter 736, Oregon Laws 2003;*]

29 [(e)] (c) Making qualified directed payments to coordinated care organizations to be used to
30 provide to type A hospitals, type B hospitals and health district hospitals additional reimbursement
31 that:

32 (A) Is based on the utilization and delivery of services;

33 (B) Is expended equally, using the same terms of performance for all type A hospitals and type
34 B hospitals;

35 (C) Is expected to advance at least one of the goals of the state’s quality strategy;

36 (D) Is evaluated on the degree to which the payments advance at least one of the goals of the
37 state’s quality strategy;

38 (E) Does not require a hospital to enter into an intergovernmental transfer agreement; and

39 (F) Is not renewed automatically; and

40 [(f)] (d) Paying administrative costs incurred by the authority to administer the assessments
41 imposed under section 2, chapter 736, Oregon Laws 2003.

42 (3) The authority may not use moneys from the Hospital Quality Assurance Fund to supplant,
43 directly or indirectly, other moneys made available to fund services described in subsection (2) of
44 this section.

45 **SECTION 28.** Section 10, chapter 736, Oregon Laws 2003, as amended by section 3, chapter 780,

1 Oregon Laws 2007, section 20, chapter 867, Oregon Laws 2009, section 8, chapter 608, Oregon Laws
2 2013, and section 2, chapter 16, Oregon Laws 2015, is amended to read:

3 **Sec. 10.** Sections 1 to 9, chapter 736, Oregon Laws 2003, apply to net revenues earned by hos-
4 pitals during a period beginning October 1, 2015, and ending the earlier of September 30, [2019]
5 **2021**, or the date on which the assessment no longer qualifies for federal financial participation un-
6 der Title XIX or XXI of the Social Security Act.

7 **SECTION 29.** Section 12, chapter 736, Oregon Laws 2003, as amended by section 4, chapter 780,
8 Oregon Laws 2007, section 21, chapter 867, Oregon Laws 2009, section 9, chapter 608, Oregon Laws
9 2013, and section 3, chapter 16, Oregon Laws 2015, is amended to read:

10 **Sec. 12.** Sections 1 to 9, chapter 736, Oregon Laws 2003, [*and section 1, chapter 608, Oregon*
11 *Laws 2013,*] are repealed on January 2, [2024] **2026**.

12 **SECTION 30.** Section 13, chapter 736, Oregon Laws 2003, as amended by section 5, chapter 780,
13 Oregon Laws 2007, section 22, chapter 867, Oregon Laws 2009, section 10, chapter 608, Oregon Laws
14 2013, and section 4, chapter 16, Oregon Laws 2015, is amended to read:

15 **Sec. 13.** Nothing in the repeal of sections 1 to 9, chapter 736, Oregon Laws 2003, [*and section*
16 *1, chapter 608, Oregon Laws 2013,*] by section 12, chapter 736, Oregon Laws 2003, affects the impo-
17 sition and collection of a hospital assessment under sections 1 to 9, chapter 736, Oregon Laws 2003,
18 for a calendar quarter beginning before September 30, [2019] **2021**.

19 **SECTION 31.** Section 14, chapter 736, Oregon Laws 2003, as amended by section 6, chapter 780,
20 Oregon Laws 2007, section 23, chapter 867, Oregon Laws 2009, and section 5, chapter 16, Oregon
21 Laws 2015, is amended to read:

22 **Sec. 14.** Any moneys remaining in the Hospital Quality Assurance Fund on December 31,
23 [2023] **2025**, are transferred to the General Fund.

24 **SECTION 32.** Section 15, chapter 389, Oregon Laws 2015, is amended to read:

25 **Sec. 15.** Section 1, chapter 608, Oregon Laws 2013, as amended by section 6, chapter 16, Oregon
26 Laws 2015, and section 13, [*of this 2015 Act*] **chapter 389, Oregon Laws 2015**, is repealed on [*Sep-*
27 *tember 30, 2019*] **July 1, 2018**.

28 **SECTION 33.** ORS 323.031 is amended to read:

29 323.031. (1) Notwithstanding ORS 323.030 (2) and in addition to and not in lieu of any other tax,
30 every distributor shall pay a tax upon distributions of cigarettes at the rate of [30] _____ mills
31 for the distribution of each cigarette in this state.

32 (2) Any cigarette for which a tax has once been imposed under ORS 323.005 to 323.482 may not
33 be subject upon a subsequent distribution to the taxes imposed by ORS 323.005 to 323.482.

34 **SECTION 34.** ORS 323.457 is amended to read:

35 323.457. (1) Moneys received under ORS 323.031 shall be paid over to the State Treasurer to be
36 held in a suspense account established under ORS 293.445. After the payment of refunds:

37 (a) [29.37/30] _____ of the moneys shall be credited to the Oregon Health [*Plan*] **Authority**
38 Fund established under ORS [414.109] **413.101**;

39 (b) [0.14/30] _____ of the moneys are continuously appropriated to the Oregon Department of
40 Administrative Services for distribution to the cities of this state;

41 (c) [0.14/30] _____ of the moneys are continuously appropriated to the Oregon Department of
42 Administrative Services for distribution to the counties of this state;

43 (d) [0.14/30] _____ of the moneys are continuously appropriated to the Department of Trans-
44 portation to be distributed and transferred to the Elderly and Disabled Special Transportation Fund
45 established under ORS 391.800; and

1 (e) [0.21/30] _____ of the moneys shall be credited to the Tobacco Use Reduction Account
 2 established under ORS 431A.153.

3 (2)(a) Moneys distributed to cities and counties under this section shall be distributed to each
 4 city or county using the proportions used for distributions made under ORS 323.455.

5 (b) Moneys shall be distributed to cities, counties and the Elderly and Disabled Special Trans-
 6 portation Fund at the same time moneys are distributed to cities, counties and the Elderly and
 7 Disabled Special Transportation Fund under ORS 323.455.

8 **SECTION 35. (1) In addition to and not in lieu of any other tax, for the privilege of**
 9 **holding or storing cigarettes for sale, use or consumption, a floor tax is imposed upon every**
 10 **dealer at the rate of _____ mills for each cigarette in the possession of or under the con-**
 11 **trol of the dealer in this state at 12:01 a.m. on January 1, 2018.**

12 (2) The tax imposed by this section is due and payable on or before January 20, 2018. Any
 13 amount of tax that is not paid within the time required shall bear interest at the rate es-
 14 tablished under ORS 305.220 per month, or fraction of a month, from the date on which the
 15 tax is due to be paid, until paid.

16 (3) By January 20, 2018, every dealer must file a report with the Department of Revenue
 17 in such form as the department may prescribe. The report must state the number of ciga-
 18 rettes in the possession of or under the control of the dealer in this state at 12:01 a.m. on
 19 January 1, 2018, and the amount of tax due. Each report must be accompanied by a remit-
 20 tance payable to the department for the amount of tax due.

21 (4) As used in this section, “dealer” has the meaning given that term in ORS 323.010.

22 **SECTION 36. Notwithstanding ORS 323.030 (3), for the privilege of distributing cigarettes**
 23 **as a distributor, as defined in ORS 323.015, and for holding or storing cigarettes for sale, use**
 24 **or consumption, a floor tax and cigarette adjustment indicia tax is imposed upon every dis-**
 25 **tributor in the amount of \$_____ for each Oregon cigarette tax stamp bearing the desig-**
 26 **nation “25,” and in the amount of \$_____ for each Oregon cigarette tax stamp bearing the**
 27 **designation “20,” that is affixed to any package of cigarettes in the possession of or under**
 28 **the control of the distributor at 12:01 a.m. on January 1, 2018.**

29 **SECTION 37. (1) Every distributor, as defined in ORS 323.015, must take an inventory as**
 30 **of 12:01 a.m. on January 1, 2018, of all packages of cigarettes to which are affixed Oregon**
 31 **cigarette tax stamps and of all unaffixed Oregon cigarette tax stamps in the possession of**
 32 **or under the control of the distributor.**

33 (2) Every distributor must file a report with the Department of Revenue by January 20,
 34 2018, in such form as the department may prescribe, showing:

35 (a) The number of Oregon cigarette tax stamps, with the designations of the stamps, that
 36 were affixed to packages of cigarettes in the possession of or under the control of the dis-
 37 tributor at 12:01 a.m. on January 1, 2018; and

38 (b) The number of unaffixed Oregon cigarette tax stamps, with the designations of the
 39 stamps, that were in the possession of or under the control of the distributor at 12:01 a.m.
 40 on January 1, 2018.

41 (3) The amount of tax required to be paid with respect to the affixed Oregon cigarette
 42 tax stamps shall be computed pursuant to section 36 of this 2017 Act and remitted with the
 43 distributor’s report. Any amount of tax not paid within the time specified for the filing of
 44 the report shall bear interest at the rate established under ORS 305.220 per month, or frac-
 45 tion of a month, from the due date of the report until paid.

1 **SECTION 38.** All moneys received by the Department of Revenue from the taxes imposed
2 by sections 35 and 36 of this 2017 Act shall be paid over to the State Treasurer to be held in
3 a suspense account established under ORS 293.445. After payment of refunds, the balance
4 shall be credited to the General Fund.

5 **SECTION 39.** The amendments to ORS 323.031 and 323.457 by sections 33 and 34 of this
6 2017 Act apply to distributions of cigarettes occurring on or after January 1, 2018.

7 **SECTION 40.** (1) No later than February 1, 2018, the Oregon Health Authority shall report
8 to the Joint Committee on Ways and Means of the Legislative Assembly all of the following:

9 (a) The amount of moneys transferred to the authority by the Oregon Health and Science
10 University and hospitals created by health districts as intergovernmental transfers.

11 (b) Assessments collected under section 2, chapter 736, Oregon Laws 2003, as amended
12 by section 1, chapter 780, Oregon Laws 2007, section 51, chapter 828, Oregon Laws 2009, sec-
13 tion 17, chapter 867, Oregon Laws 2009, section 2, chapter 608, Oregon Laws 2013, section 1,
14 chapter 16, Oregon Laws 2015, and section 23 of this 2017 Act.

15 (c) The amount of moneys paid into the Health Care Trust Fund established in ORS
16 293.540 on or after July 1, 2017.

17 (d) The amount of moneys in the suspense account resulting from the amendments to
18 ORS 323.031 and 323.457 by sections 33 and 34 of this 2017 Act.

19 (2) If the authority fails to report as required by subsection (1) of this section, the un-
20 expended balances of moneys transferred, collected or paid from the sources described in
21 subsection (1) of this section on or after July 1, 2018, shall be transferred back to the funds
22 and accounts from which the moneys were transferred.

23
24 **OPERATIVE DATES AND APPLICABILITY PROVISIONS**

25
26 **SECTION 41.** Sections 1 to 12 of this 2017 Act apply to inhalant-form nicotine and
27 inhalant delivery systems sold on or after January 1, 2018.

28 **SECTION 42.** (1) Section 20 of this 2017 Act becomes operative on June 30, 2018.

29 (2) The amendments to sections 3, 7 and 9, chapter 736, Oregon Laws 2003, as amended
30 by sections 24, 25 and 27 of this 2017 Act, become operative on July 1, 2018.

31
32 **CAPTIONS**

33
34 **SECTION 43.** The unit captions used in this 2017 Act are provided only for the conven-
35 ience of the reader and do not become part of the statutory law of this state or express any
36 legislative intent in the enactment of this 2017 Act.

37
38 **EFFECTIVE DATE**

39
40 **SECTION 44.** This 2017 Act takes effect on the 91st day after the date on which the 2017
41 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.