

# Senate Bill 799

Sponsored by Senator KRUSE

## 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**.

Creates exemptions to Oregon Indoor Clean Air Act for using inhalant delivery systems to aerosolize or vaporize inhalants for purposes related to employees testing inhalant delivery systems and persons sampling inhalants.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to inhalant delivery systems; creating new provisions; amending ORS 433.835 and 433.850;  
3 and prescribing an effective date.

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

5 **SECTION 1.** ORS 433.835 is amended to read:

6 433.835. As used in ORS 433.835 to 433.875:

7 (1) "Cigar bar" means a business that:

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

9 (b) Has a humidor on the premises;

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

12 (d) Has been issued and operates under a full on-premises sales license issued under ORS  
13 471.175;

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

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

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

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

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

23 (2) "Inhalant" means nicotine, a cannabinoid or any other substance that:

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

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

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

30 (B) If approved by, or emitted by a device approved by, the United States Food and Drug Ad-

**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 ministration for a therapeutic purpose, is not marketed and sold solely for that purpose.

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

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

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

9 [(4)] **(5)** “Public place” means an enclosed area open to the public.

10 [(5)] **(6)** “Smoke shop” means a business that is certified with the Oregon Health Authority as  
11 a smoke shop pursuant to the rules adopted under ORS 433.847.

12 [(6)] **(7)** “Smoking instrument” means any cigar, cigarette, pipe or other instrument used to  
13 smoke tobacco, marijuana or any other inhalant.

14 **SECTION 2.** ORS 433.850 is amended to read:

15 433.850. (1) An employer:

16 (a) Shall provide for employees a place of employment that is free of all smoke, aerosols and  
17 vapors containing inhalants; and

18 (b) May not allow employees to smoke, aerosolize or vaporize inhalants at the place of employ-  
19 ment.

20 (2) Notwithstanding subsection (1) of this section:

21 (a) The owner or person in charge of a hotel or motel may designate up to 25 percent of the  
22 sleeping rooms of the hotel or motel as rooms in which the smoking, aerosolizing or vaporizing of  
23 inhalants is permitted.

24 (b) Smoking of noncommercial tobacco products for ceremonial purposes is permitted in spaces  
25 designated for traditional ceremonies in accordance with the American Indian Religious Freedom  
26 Act, 42 U.S.C. 1996.

27 (c) The smoking of tobacco products is permitted in a smoke shop.

28 (d) The smoking of cigars is permitted in a cigar bar that generated on-site retail sales of cigars  
29 of at least \$5,000 for the calendar year ending December 31, 2006.

30 **(e) The use of inhalant delivery systems to aerosolize or vaporize inhalants is permitted:**

31 **(A) On the premises of a manufacturer of inhalant delivery systems by an employee of**  
32 **the manufacturer for the purpose of testing inhalant delivery systems;**

33 **(B) On the premises of a business that engages in the sale, for off-premises consumption**  
34 **or use, of inhalant delivery systems, by an employee of the business for the purpose of**  
35 **sampling inhalants; or**

36 **(C) On the premises of a business as described in section 4 of this 2017 Act.**

37 [(e)] **(f)** A performer may smoke or carry a lighted smoking instrument that does not contain  
38 tobacco or marijuana, and may aerosolize or vaporize a substance that does not contain nicotine or  
39 a cannabinoid, while performing in a scripted stage, motion picture or television production if:

40 (A) The production is produced by an organization whose primary purpose is producing scripted  
41 productions; and

42 (B) The act of smoking, aerosolizing or vaporizing is an integral part of the production.

43 [(f)] **(g)** The medical use of marijuana is permitted in the place of employment of a licensee of  
44 a professional licensing board as described in ORS 475B.485.

45 (3) An employer, except in those places described in subsection [(2)] **(2)(a), (b), (c), (d), (e)(A),**

1 (f) and (g) of this section, shall post signs that provide notice of the provisions of ORS 433.835 to  
2 433.875.

3 **SECTION 3.** Section 4 of this 2017 Act is added to and made a part of ORS 433.835 to  
4 433.875.

5 **SECTION 4.** A business that engages in the sale, for off-premises consumption or use,  
6 of inhalant delivery systems may allow a person to aerosolize or vaporize an inhalant on the  
7 premises of the business if:

8 (1) The business allows the aerosolizing or vaporizing of inhalants only for the purpose  
9 of sampling inhalants;

10 (2) The business does not allow the aerosolizing or vaporizing of inhalants that contain  
11 nicotine or a cannabinoid;

12 (3) The business prohibits persons under 18 years of age from entering the premises; and

13 (4) The business has a maximum seating capacity of 10 persons.

14 **SECTION 5.** This 2017 Act takes effect on the 91st day after the date on which the 2017  
15 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.

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