

SB 998-8
(LC 2210)
4/18/17 (MBM/ps)

Requested by SENATE COMMITTEE ON HEALTH CARE

**PROPOSED AMENDMENTS TO
SENATE BILL 998**

1 On page 1 of the printed bill, line 2, delete “431A.183; repealing ORS
2 181A.330,”.

3 In line 3, delete “181A.335, 431A.178 and 431A.180” and insert “433.835”.

4 Delete lines 5 through 26 and delete pages 2 through 6 and insert:
5

6 **“REGISTRATION**

7 **OPERATIVE JANUARY 1, 2018**
8

9 **“SECTION 1. Definitions. As used in sections 1 to 12 of this 2017
10 **Act:****

11 **“(1) ‘Inhalant delivery system’ has the meaning given that term in**
12 **ORS 431A.175.**

13 **“(2) ‘Premises’ means the real property on which a business that**
14 **makes retail sales of tobacco products or inhalant delivery systems is**
15 **located.**

16 **“(3) ‘Tobacco products’ has the meaning given that term in ORS**
17 **431A.175.**

18 **“SECTION 2. Purpose. The purpose of sections 1 to 12 of this 2017**
19 **Act is to improve enforcement of state laws and rules and federal laws**
20 **and regulations governing the retail sale of tobacco products and**
21 **inhalant delivery systems.**

1 **SECTION 3. Registration requirement.** A person may not make a
2 retail sale of a tobacco product or an inhalant delivery system at or
3 from a premises located in this state unless the person sells the to-
4 bacco product or inhalant delivery system at or from a premises that
5 has been registered under section 5 of this 2017 Act.

6 **SECTION 4. Premises to which Act does not apply.** Notwith-
7 standing section 3 of this 2017 Act, sections 1 to 12 of this 2017 Act do
8 not apply to a person making a retail sale of an inhalant delivery
9 system at a medical marijuana dispensary registered under ORS
10 475B.450 or at a premises for which a license has been issued under
11 ORS 475B.110, unless the person makes a retail sale of tobacco pro-
12 ducts or an inhalant delivery system that contains nicotine.

13 **SECTION 5. Registration.** (1) The Department of Revenue shall
14 register, and annually renew the registration of, a person that makes
15 retail sales of tobacco products or inhalant delivery systems at quali-
16 fied premises.

17 “(2) To be qualified for registration under this section, a premises
18 must be a premises that is fixed and permanent.

19 “(3) The department shall adopt rules establishing procedures for
20 applying for registration and annually renewing a registration under
21 this section.

22 “(4) A person that makes retail sales of tobacco products or
23 inhalant delivery systems must pay a fee to the department at the
24 time of applying for registration under this section or renewing a
25 registration under this section. The department shall adopt the
26 amount of the fee by rule, provided that the fee does not exceed \$50.
27 The department shall deposit all fee moneys collected under this sec-
28 tion in the suspense account described in section 10 of this 2017 Act.

29 “(5) An application submitted under this section and information
30 related to applying for registration or renewing a registration under

1 this section is confidential and not subject to public disclosure under
2 ORS 192.410 to 192.505. However, an application submitted under this
3 section and information related to applying for registration or renew-
4 ing a registration under this section may be shared with the Oregon
5 Health Authority and the Department of Justice.

6 “(6) The Department of Revenue shall publish a list that includes
7 the name of each person registered under this section, the address of
8 each premises registered under this section and any other information
9 that the department determines is relevant to the public with respect
10 to the retail sale of tobacco products and inhalant delivery systems.

11 “SECTION 6. Proof of registration. A person registered under sec-
12 tion 5 of this 2017 Act must keep proof of registration at the registered
13 premises.

14 “SECTION 7. Revocation and refusal to issue or renew registration.

15 (1) The Department of Revenue may revoke, refuse to issue or refuse
16 to renew a registration under section 5 of this 2017 Act if the person
17 that is registered or seeks registration, an individual who participates
18 in the management of the premises that is registered or for which
19 registration is sought or an individual who is employed for the purpose
20 of making retail sales at the premises:

21 “(a) Violates sections 1 to 12 of this 2017 Act, a rule adopted under
22 sections 1 to 12 of this 2017 Act or any other state law or rule or fed-
23 eral law or regulation that governs the retail sale of tobacco products
24 or inhalant delivery systems or state taxation; or

25 “(b) Makes a false statement to the department.

26 “(2) The department may revoke a registration pursuant to this
27 section only if a person or individual described in subsection (1) of this
28 section commits, with respect to a registered premises, five or more
29 violations during a 12-month period.

30 “(3) Notwithstanding ORS 305.280 or 323.416, except as identified by

1 the department by rule or otherwise, disciplinary action taken under
2 this section may be appealed to the magistrate division of the Oregon
3 Tax Court within 30 days of the date of the disciplinary action in the
4 manner provided in ORS 305.404 to 305.560.

5 **“SECTION 8. Civil penalty.** (1) The Department of Revenue may
6 impose a civil penalty against a person that is registered or that seeks
7 registration under section 5 of this 2017 Act if the person that is reg-
8 istered or that seeks registration, an individual who participates in the
9 management of the premises that is registered or for which registra-
10 tion is sought or an individual who is employed for the purpose of
11 making retail sales at the premises:

12 **“(a) Violates sections 1 to 12 of this 2017 Act, a rule adopted under**
13 **sections 1 to 12 of this 2017 Act or any other state law or rule or fed-**
14 **eral law or regulation that governs the retail sale of tobacco products**
15 **or inhalant delivery systems or state taxation; or**

16 **“(b) Makes a false statement to the department.**

17 **“(2) A civil penalty imposed under this section may not exceed**
18 **\$1,000 per violation.**

19 **“(3) The department shall deposit the amounts collected under this**
20 **section in the suspense account described in section 10 of this 2017 Act.**

21 **“(4) Notwithstanding ORS 305.280 or 323.416, except as identified by**
22 **the department by rule or otherwise, the imposition of a civil penalty**
23 **under this section may be appealed to the magistrate division of the**
24 **Oregon Tax Court within 30 days of the date of the imposition of the**
25 **civil penalty in the manner provided in ORS 305.404 to 305.560.**

26 **“SECTION 9. Seizure and forfeiture of contraband tobacco products**
27 **and contraband inhalant delivery systems.** (1) For purposes of this
28 section, a tobacco product or inhalant delivery system sold or held for
29 sale at or from a premises that is not registered under section 5 of this
30 2017 Act is a contraband tobacco product or contraband inhalant de-

1 livery system.

2 “(2) A contraband tobacco product or contraband inhalant delivery
3 system found by the Department of Revenue or a law enforcement
4 agency may be seized immediately by the department or agency and
5 is subject to forfeiture. If seized and forfeited under this section, the
6 contraband tobacco product or the contraband inhalant delivery sys-
7 tem must be destroyed.

8 “(3) Notwithstanding ORS 305.280 or 323.416, except as identified by
9 the department by rule or otherwise, a seizure and forfeiture made
10 under this section may be appealed to the magistrate division of the
11 Oregon Tax Court within 30 days of the date of the seizure in the
12 manner provided in ORS 305.404 to 305.560.

13 “SECTION 10. Suspense account for administration and enforce-
14 ment. (1) Amounts collected by the Department of Revenue under
15 sections 5 and 8 of this 2017 Act shall be paid to the State Treasurer
16 to be held in a suspense account established under ORS 293.445.

17 “(2) From moneys held in the suspense account, the department
18 may pay expenses related to the administration and enforcement of
19 sections 1 to 12 of this 2017 Act.

20 “(3) Amounts necessary to make payments as described in sub-
21 section (2) of this section are continuously appropriated to the de-
22 partment from the suspense account.

23 “SECTION 11. Rules. The Department of Revenue may adopt rules
24 necessary for the effective administration of sections 1 to 12 of this
25 2017 Act.

26 “SECTION 12. Intergovernmental agreements. The Department of
27 Revenue and the Oregon Health Authority shall share information
28 necessary for the effective administration of sections 1 to 12 of this
29 2017 Act and ORS 431A.175 and 431A.183, including information related
30 to investigations conducted by the authority pursuant to ORS 431A.183,

1 to ensure that the department may effectively discipline a person un-
2 der section 7 or 8 of this 2017 Act that is registered or seeks registra-
3 tion under section 5 of this 2017 Act.

4
5 **“INDOOR CLEAN AIR ACT**
6 **EFFECTIVE 91ST DAY AFTER SINE DIE**

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8 **“SECTION 13.** ORS 433.835 is amended to read:

9 “433.835. As used in ORS 433.835 to 433.875:

10 “(1) ‘Cigar bar’ means a business that:

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

12 “(b) Has a humidor on the premises;

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

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

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

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

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

21 “(h) Has a ventilation system that exhausts smoke from the business and
22 is designed and terminated in accordance with the state building code stan-
23 dards for the occupancy classification in use; and

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

26 **“(2) ‘Enclosed area’ means the entirety of the space between a floor**
27 **and a ceiling that is enclosed on three or more sides by permanent or**
28 **temporary walls or windows, exclusive of doors or passageways, that**
29 **extend from the floor to the ceiling.**

30 “[2)] (3) ‘Inhalant’ means nicotine, a cannabinoid or any other substance

1 that:

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

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

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

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

11 “[3(a)] (4)(a) ‘Place of employment’ means an enclosed area under the
12 control of a public or private employer, including work areas, employee
13 lounges, vehicles that are operated in the course of an employer’s business
14 and that are not operated exclusively by one employee, rest rooms, confer-
15 ence rooms, classrooms, cafeterias, hallways, meeting rooms, elevators and
16 stairways.

17 “(b) ‘Place of employment’ does not include a private residence unless it
18 is used as a child care facility as defined in ORS 329A.250 or a facility pro-
19 viding adult day care as defined in ORS 410.490.

20 “[4] (5) ‘Public place’ means an enclosed area open to the public.

21 “[5] (6) ‘Smoke shop’ means a business that is certified with the Oregon
22 Health Authority as a smoke shop pursuant to the rules adopted under ORS
23 433.847.

24 “[6] (7) ‘Smoking instrument’ means any cigar, cigarette, pipe or other
25 instrument used to smoke tobacco, marijuana or any other inhalant.

26

27 **“MISCELLANEOUS**

28

29 **“SECTION 14. Operative date. (1) Sections 1 to 12 of this 2017 Act**
30 **become operative on January 1, 2018.**

1 “(2) The Department of Revenue and the Oregon Health Authority
2 may take any action before the operative date specified in subsection
3 (1) of this section that is necessary to enable the department and au-
4 thority to exercise, on and after the operative date specified in sub-
5 section (1) of this section, all the duties, functions and powers
6 conferred on the department and authority by sections 1 to 12 of this
7 2017 Act.

8 “SECTION 15. Section and unit captions. The section and unit cap-
9 tions used in this 2017 Act are provided only for the convenience of the
10 reader and do not become part of the statutory law of this state or
11 express any legislative intent in the enactment of this 2017 Act.

12 “SECTION 16. Effective date. This 2017 Act takes effect on the 91st
13 day after the date on which the 2017 regular session of the Seventy-
14 ninth Legislative Assembly adjourns sine die.”.

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