

Requested by Representative POST

**PROPOSED AMENDMENTS TO
A-ENGROSSED SENATE BILL 1044**

1 On page 1 of the printed A-engrossed bill, line 2, after “279A.025,” insert
2 “433.847.”.

3 On page 8, after line 9, insert:

4 **“SECTION 10a.** ORS 433.847 is amended to read:

5 “433.847. (1) The Oregon Health Authority shall adopt rules establishing
6 a certification system for smoke shops. In adopting such rules, the authority
7 shall prohibit the smoking, aerosolizing or vaporizing of inhalants that are
8 not tobacco products in smoke shops.

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

11 “(a)(A) Is primarily engaged in the sale, for off-premises consumption or
12 use, of tobacco products and smoking instruments used to smoke tobacco
13 products, with at least 75 percent of the gross revenues of the business re-
14 sulting from such sales;

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

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

18 “(D) Does not sell or offer food or beverages and does not sell[,] **or** offer
19 [*or allow on-premises consumption of*] alcoholic beverages[;], **except as al-**
20 **lowed under one of the following types of licenses:**

21 **“(i) A temporary sales license as described in ORS 471.190;**

1 “(ii) A full or limited on-premises sales license pursuant to a con-
2 tract as described in ORS 471.184;

3 “(iii) A special events brewery-public house license as described in
4 ORS 471.200 (1)(h);

5 “(iv) A special events winery license as described in ORS 471.223
6 (2)(j);

7 “(v) A special events grower sales privilege license as described in
8 ORS 471.227 (1)(f);

9 “(vi) A special events distillery license as described in ORS 471.230
10 (2)(b); or

11 “(vii) A special events brewery license as described in section 2
12 (2)(e), chapter 3, Oregon Laws 2016;

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

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

16 “(G) Allows the smoking of tobacco product samples only for the purpose
17 of making retail purchase decisions;

18 “(b) On December 31, 2008:

19 “(A) Met the requirements of paragraph (a)(A) to (D) of this subsection;
20 and

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

23 “(ii) Had a ventilation system that exhausted smoke from the business and
24 was designed and terminated in accordance with the state building code
25 standards for the occupancy classification in use; or

26 “(c)(A) Was certified as a smoke shop under ORS 433.835, as in effect
27 immediately before June 30, 2011, by the authority on or before December
28 31, 2012; and

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

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

4 “(a)(A) Meets the requirements of subsection (2)(a)(A) to (D) of this sec-
5 tion; and

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

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

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

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

16 “(a) Meets the requirements of ORS 433.835, as in effect immediately be-
17 fore June 30, 2011; and

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

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

23 “(6) A smoke shop certified under subsection (2)(b) of this section may
24 continue to be certified in a new location under subsection (2)(b) of this
25 section if:

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

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

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

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

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

4 “(ii) Has a ventilation system that exhausts smoke from the business and
5 is designed and terminated in accordance with the state building code stan-
6 dards for the occupancy classification in use; and

7 “(C) Allows the smoking of cigarettes only if at least 75 percent of the
8 gross revenues of the business results from the sale of cigarettes.

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

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

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

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

17 “(A) Meets the requirements of ORS 433.835, as in effect immediately be-
18 fore June 30, 2011; and

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

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

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