

Requested by Senator TAYLOR

**PROPOSED AMENDMENTS TO
HOUSE BILL 3178**

1 On page 1 of the printed bill, line 2, after the first semicolon insert
2 “creating new provisions; amending ORS 131.602;”.

3 Delete lines 5 through 28 and delete pages 2 through 8 and insert:

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

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

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

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

14 **“(4) ‘Distribute’ means:**

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

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

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

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

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

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

6 **“(5) ‘Inhalant delivery system’ has the meaning given that term in**
7 **ORS 431A.175.**

8 **“(6)(a) ‘Inhalant-form nicotine’ means nicotine that:**

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

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

13 **“(C)(i) Is not approved by, or emitted by a device approved by, the**
14 **United States Food and Drug Administration for a therapeutic pur-**
15 **pose; or**

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

19 **“(b) ‘Inhalant-form nicotine’ does not include cigarettes as defined**
20 **in ORS 323.010 or tobacco products as defined in ORS 323.500.**

21 **“(7) ‘Inhalant product’ means:**

22 **“(a) A substance, other than cannabinoids, in any form sold for the**
23 **purpose of being vaporized or aerosolized by an inhalant delivery sys-**
24 **tem; or**

25 **“(b) Inhalant-form nicotine.**

26 **“(8) ‘Inhalant product distributor’ means:**

27 **“(a) Any person that is engaged in the business of selling or other-**
28 **wise dispensing inhalant product in this state who brings, or causes**
29 **to be brought, into this state from outside this state inhalant product**
30 **for sale;**

1 **“(b) Any person who makes, manufactures, mixes, formulates or**
2 **fabricates inhalant product in this state for sale in this state;**

3 **“(c) Any person engaged in the business of selling inhalant product**
4 **outside this state who ships or transports inhalant product to retail**
5 **dealers in this state, to be sold by those retail dealers;**

6 **“(d) Any person, including a retail dealer, who sells untaxed**
7 **inhalant product in this state; or**

8 **“(e) A consumer in possession of untaxed inhalant product in this**
9 **state.**

10 **“(9) ‘Inhalant product manufacturer’ means any person who makes,**
11 **manufactures, mixes, formulates or fabricates inhalant product for**
12 **sale.**

13 **“(10) ‘Inhalant product wholesaler’ means any person who engages**
14 **in the sale of inhalant product to any retail dealer for purposes other**
15 **than use or consumption.**

16 **“(11)(a) ‘Retail dealer’ means any person who is engaged in the**
17 **business of selling or otherwise dispensing inhalant product to con-**
18 **sumers.**

19 **“(b) ‘Retail dealer’ includes the operators of, or recipients of reve-**
20 **nue from, all places where inhalant product is made or stored for ul-**
21 **timate sale to consumers.**

22 **“(12) ‘Sale’ means any transfer, exchange or barter, in any manner**
23 **or by any means, for a consideration, or a gift by a person engaged in**
24 **the business of selling inhalant product.**

25 **“(13) ‘Untaxed inhalant product’ means inhalant product for which**
26 **the tax required under sections 1 to 11 of this 2017 Act has not been**
27 **paid.**

28 **“(14) ‘Wholesale sales price’ means the price paid for untaxed**
29 **inhalant product to or on behalf of a seller by a purchaser of the un-**
30 **taxed inhalant product. For inhalant product manufacturers, whole-**

1 sale sales price includes all amounts paid for any component or
2 ingredient of the inhalant product.

3 **“SECTION 2. (1) A tax is hereby imposed upon the distribution of**
4 **inhalant product in this state. The tax imposed by this section is in-**
5 **tended to be a direct tax on the consumer, for which payment upon**
6 **distribution is required to achieve convenience and facility in the col-**
7 **lection and administration of the tax. The tax shall be imposed on an**
8 **inhalant product distributor at the time of distribution.**

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

11 **“(a) Ninety-five percent of the wholesale sales price of inhalant**
12 **product other than that described in paragraph (b) or (c) of this sub-**
13 **section.**

14 **“(b) Ninety-five percent of the wholesale sales price of disposable**
15 **cartridges containing an inhalant product.**

16 **“(c) Ninety-five percent of the wholesale sales price of a disposable**
17 **inhalant delivery system that is sold containing an inhalant product.**

18 **“(3)(a) In a transaction between parties that are not related or af-**
19 **iliated and that are presumed to have roughly equal bargaining**
20 **power, the wholesale sales price is the price by the purchaser for the**
21 **untaxed inhalant product.**

22 **“(b) In a transaction between parties that are related or affiliated**
23 **or presumed not to have equal bargaining power, the wholesale sales**
24 **price is determined based upon comparable wholesale inhalant product**
25 **distributors’ arm’s length wholesale transactions as described in par-**
26 **agraph (a) of this subsection.**

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

29 **“(5) If the tax imposed under this section does not equal an amount**
30 **calculable to a whole cent, the tax shall be equal to the next higher**

1 whole cent.

2 **“SECTION 3. (1) Except as otherwise provided in sections 1 to 11**
3 **of this 2017 Act, the tax imposed by sections 1 to 11 of this 2017 Act**
4 **shall be paid by each inhalant product distributor to the Department**
5 **of Revenue on or before the last day of January, April, July and Oc-**
6 **tober of each year for the preceding calendar quarter.**

7 **“(2) With each quarterly payment, the taxpayer shall submit a re-**
8 **turn to the department, in such form and containing such information**
9 **as the department shall prescribe.**

10 **“(3) The tax, penalties and interest imposed by sections 1 to 11 of**
11 **this 2017 Act shall be a personal debt, from the time liability is in-**
12 **curring, owed by the taxpayer to the State of Oregon until paid.**

13 **“(4) The returns required of inhalant product distributors under**
14 **this section shall be filed by the inhalant product distributors regard-**
15 **less of whether any tax is owed by the inhalant product distributors.**

16 **“(5)(a) The department for good cause may extend the time for**
17 **making any return under sections 1 to 11 of this 2017 Act. The exten-**
18 **sion may be granted at any time if a written request is filed with the**
19 **department within or prior to the period for which the extension may**
20 **be granted. The department may not grant an extension of more than**
21 **one month.**

22 **“(b) When the time for filing a return is extended at the request**
23 **of a taxpayer, interest shall be added at the rate established under**
24 **ORS 305.220, from the time the return was originally required to be**
25 **filed to the time of payment.**

26 **“SECTION 4. (1) An inhalant product wholesaler, inhalant product**
27 **distributor or another person dealing in or storing inhalant product**
28 **shall keep receipts, invoices and other pertinent records related to**
29 **sales of inhalant product in the form required by the Department of**
30 **Revenue. Each record shall be preserved for five years from the time**

1 to which the record relates, or for as long as the inhalant product
2 wholesaler, inhalant product distributor or other person retains the
3 inhalant product to which the record relates, whichever is later. Dur-
4 ing the retention period and at any time prior to the destruction of
5 records, the department may give written notice to the inhalant
6 product wholesaler, inhalant product distributor or other person not
7 to destroy records described in the notice without written permission
8 of the department. Notwithstanding any other provision of law, the
9 department shall preserve reports and returns filed with the depart-
10 ment for at least five years.

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

16 “SECTION 5. (1) The Department of Revenue has authority, by or-
17 der or subpoena to be served with the same force and effect and in the
18 same manner as a subpoena is served in a civil action in the circuit
19 court, or the Oregon Tax Court, to require the production at any time
20 and place the department designates of any books, papers, accounts
21 or other information necessary to carry out sections 1 to 11 of this 2017
22 Act. The department may require the attendance of any person having
23 knowledge in the matter, and may take testimony and require proof
24 material for the information, with power to administer oaths to the
25 person.

26 “(2) If a person fails to comply with a subpoena or order of the de-
27 partment or to produce or permit the examination or inspection of any
28 books, papers, records and equipment pertinent to an investigation or
29 inquiry under sections 1 to 11 of this 2017 Act, or to testify to any
30 matter regarding which the person is lawfully interrogated, the de-

1 department may apply to the Oregon Tax Court or to the circuit court
2 of the county in which the person resides or where the person is for
3 an order to the person to attend and testify, or otherwise to comply
4 with the demand or request of the department. The department shall
5 apply to the court by ex parte motion, upon which the court shall
6 make an order requiring the person against whom the motion is di-
7 rected to comply with the request or demand of the department within
8 10 days after the service of the order, or within the additional time
9 granted by the court, or to justify the failure within that time. The
10 order shall be served upon the person to whom it is directed in the
11 manner required by this state for service of process, which service is
12 required to confer jurisdiction upon the court. Failure to obey any
13 order issued by the court under this section is contempt of court. The
14 remedy provided by this section is in addition to other remedies, civil
15 or criminal, existing under the tax laws or other laws of this state.

16 **SECTION 6.** Except as otherwise provided in sections 1 to 11 of this
17 2017 Act, a person aggrieved by an act or determination of the De-
18 partment of Revenue or its authorized agent under sections 1 to 11 of
19 this 2017 Act may appeal, within 90 days after the act or determi-
20 nation, to the Oregon Tax Court in the manner provided in ORS 305.404
21 to 305.560. These appeal rights are the exclusive remedy available to
22 determine the person's liability for the tax imposed under sections 1
23 to 11 of this 2017 Act.

24 **SECTION 7.** The Department of Revenue shall administer and en-
25 force sections 1 to 25 of this 2017 Act. The department is authorized
26 to establish rules and procedures for the implementation and enforce-
27 ment of sections 1 to 25 of this 2017 Act that are consistent with
28 sections 1 to 25 of this 2017 Act.

29 **SECTION 8.** Except as otherwise provided in sections 1 to 11 of this
30 2017 Act or where the context requires otherwise, the provisions of

1 **ORS chapters 305 and 314 as to the audit and examination of returns,**
2 **periods of limitation, determination of and notices of deficiencies, as-**
3 **essments, collections, liens, delinquencies, claims for refund and re-**
4 **funds, conferences, appeals to the Oregon Tax Court, stays of**
5 **collection pending appeal, confidentiality of returns and the penalties**
6 **relative thereto, and the procedures relating thereto, apply to the de-**
7 **terminations of taxes, penalties and interest under sections 1 to 11 of**
8 **this 2017 Act.**

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

19 **“SECTION 10. (1) All moneys received by the Department of Reve-**
20 **nue under sections 1 to 25 of this 2017 Act shall be deposited in the**
21 **State Treasury and credited to a suspense account established under**
22 **ORS 293.445. The department may pay expenses for the administration**
23 **and enforcement of sections 1 to 25 of this 2017 Act out of moneys re-**
24 **ceived from the tax imposed under section 2 of this 2017 Act. Amounts**
25 **necessary to pay administrative and enforcement expenses are con-**
26 **tinuously appropriated to the department from the suspense account.**

27 **“(2) After the payment of administrative and enforcement expenses**
28 **and refunds or credits arising from erroneous overpayments, the de-**
29 **partment shall credit the balance of the moneys received by the de-**
30 **partment under this section to the General Fund.**

1 **“SECTION 11.** Any consumer subject to the tax resulting from a
2 distribution of inhalant product and from whom the tax has not been
3 paid shall, on or before the 20th day of the month following receipt
4 of the inhalant product, file with the Department of Revenue a report
5 of the amount of inhalant product received by the consumer in the
6 preceding calendar month in the detail and form as the department
7 may prescribe, submitting with the report the amount of tax due.

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

13 **“SECTION 13. (1)** Any person engaging or seeking to engage in the
14 sale of inhalant product as an inhalant product distributor shall file
15 an application for an inhalant product distributor’s license with the
16 Department of Revenue. The application shall be on a form prescribed
17 by the department. An inhalant product distributor shall apply for and
18 obtain a license for each place of business at which the inhalant
19 product distributor engages in the business of distributing inhalant
20 product. A fee may not be charged for the license. For the purposes
21 of this section, a vending machine in and of itself is not a place of
22 business.

23 **“(2)** A person may not engage in the business of distributing
24 inhalant product in this state without a license.

25 **“(3)** A person filing an application under this section shall include
26 with the application a written statement certifying that the person
27 will comply with the provisions of ORS 180.483 and 180.486 where ap-
28 plicable.

29 **“SECTION 14. (1)** The Department of Revenue may require any
30 person subject to sections 1 to 25 of this 2017 Act to place with the

1 department an amount of security that the department determines is
2 necessary to ensure compliance with sections 1 to 25 of this 2017 Act.

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

8 “(3) In the case of a person who, pursuant to section 16 of this 2017
9 Act, has appealed the decision of the department to suspend or revoke
10 a license, the amount of the security may not be greater than twice
11 the tax liability of the person for the reporting period under sections
12 1 to 25 of this 2017 Act, determined in a manner the department con-
13 sidered proper, or \$10,000, whichever is greater.

14 “(4) The limitations provided in this section apply regardless of the
15 type of security placed with the department. The required amount of
16 the security may be increased or decreased by the department subject
17 to the limitations provided in this section.

18 SECTION 15. (1) Upon receipt of a completed application, the
19 statement required by section 13 of this 2017 Act and any security re-
20 quired by the Department of Revenue under sections 1 to 25 of this 2017
21 Act, the department shall issue an inhalant product distributor’s li-
22 cense to an applicant. A separate license shall be issued for each place
23 of business of the inhalant product distributor within this state. Each
24 license issued by the department shall include an identification num-
25 ber for the license. A license is valid only for engaging in business
26 as an inhalant product distributor at the place designated thereon, and
27 the license shall at all times be conspicuously displayed at the place
28 for which the license is issued. The license is not transferable and is
29 valid until canceled, suspended or revoked.

30 “(2) The department may not issue a license to an applicant if the

1 department determines or has reason to believe that the applicant will
2 not comply with the provisions of ORS chapter 323 or sections 1 to 25
3 of this 2017 Act any other state or federal tax law relating to ciga-
4 rettes, tobacco products or inhalant product.

5 “(3) Notwithstanding ORS 305.280, a decision by the department not
6 to issue a license to an applicant may be appealed by the applicant to
7 the magistrate division of the tax court within 30 days of the date of
8 the decision of the department in the manner prescribed in ORS 305.404
9 to 305.560.

10 “(4) For purposes of this section, an application to renew an
11 inhalant product distributor’s license shall be considered the same as
12 an application for an initial inhalant product distributor’s license.

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

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

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

20 “(c) Comply with any other state or federal tax law relating to cig-
21 arettes, tobacco products or inhalant product.

22 “(2) Notwithstanding ORS 305.280, a decision by the department to
23 cancel, suspend or revoke a license may be appealed by the inhalant
24 product distributor to the magistrate division of the tax court within
25 30 days of the date of the decision of the department under subsection
26 (1) of this section, in the manner provided in ORS 305.404 to 305.560.

27 **“SECTION 17. Notwithstanding section 8 of this 2017 Act, informa-**
28 **tion on the license of an inhalant product distributor is not confiden-**
29 **tial. The Department of Revenue may publicly disclose or publish a list**
30 **of names of inhalant product distributors, along with any other in-**

1 formation set forth on a license.

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

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

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

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

14 **“(d) Any other information the Department of Revenue may pre-**
15 **scribe by rule.**

16 **“(2) An inhalant product distributor must provide a copy of the**
17 **sales invoice to the purchaser of the inhalant product and the pur-**
18 **chaser shall retain a copy of the invoice for five years following the**
19 **date of purchase.**

20 **“(3) Each purchaser that then sells the inhalant product to a sub-**
21 **sequent purchaser shall provide the subsequent purchaser with a sales**
22 **invoice that meets the requirements of this section.**

23 **“(4)(a) A purchaser in possession of inhalant product that is unable**
24 **to present a sales invoice that meets the requirements of this section**
25 **is presumed to be in possession of inhalant product for which the tax**
26 **imposed under sections 1 to 11 of this 2017 Act has not been paid.**

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

1 “(c) If the purchaser in possession of untaxed inhalant product is
2 a retail dealer, the Department of Revenue may impose a civil penalty
3 for the possession of untaxed inhalant product. A civil penalty imposed
4 under this paragraph may not exceed \$1,000 per violation. A penalty
5 imposed under this paragraph may be appealed to the magistrate di-
6 vision of the tax court in the time and manner prescribed in ORS
7 305.404 to 305.560.

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

10 “SECTION 19. (1)(a) A civil penalty may be imposed by the Depart-
11 ment of Revenue on any person who violates any provision of sections
12 1 to 25 of this 2017 Act.

13 “(b) A civil penalty imposed under this subsection may not exceed
14 \$1,000 per violation.

15 “(c) A penalty imposed under this subsection may be appealed to
16 the magistrate division of the tax court in the time and manner pre-
17 scribed in ORS 305.404 to 305.560.

18 “(2) Any person who, in violation of section 22 (4) of this 2017 Act,
19 prevents entry or examination by the department shall be fined a
20 maximum of \$500 per day for the first seven days and \$1,000 per each
21 additional day thereafter until the department is allowed access.

22 “(3) Any person required to obtain a license as an inhalant product
23 distributor under sections 1 to 25 of this 2017 Act who knowingly en-
24 gages in business as an inhalant product distributor without a license
25 or after a license has been suspended or revoked is guilty of a Class
26 C felony.

27 “(4) Any person required to make, render, sign or verify any report
28 under sections 1 to 25 of this 2017 Act who makes any false report with
29 the intent to defraud is guilty of a Class C felony.

30 “(5) Any person who knowingly violates any provision of sections 1

1 to 25 of this 2017 Act, except as otherwise provided in this section, is
2 guilty of a Class A misdemeanor.

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

6 “(7) In addition to any other sentence the court may impose upon
7 a conviction under this section, the court may order the forfeiture of
8 the instrumentalities used in violating sections 1 to 25 of this 2017 Act
9 and the proceeds resulting from a violation of sections 1 to 25 of this
10 2017 Act.

11 **“SECTION 20. (1) A person commits the crime of unlawful distrib-**
12 **ution of inhalant product if the person knowingly sells or distributes,**
13 **possesses or transports for sale or distribution or imports for sale or**
14 **distribution inhalant product that does not comply with sections 1 to**
15 **25 of this 2017 Act.**

16 “(2) The offense of unlawful distribution of inhalant product is
17 classified as follows:

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

21 “(b) If the amount of inhalant product tax avoided in committing
22 the offense over a 90-day period totals \$1,000 or more, but less than
23 \$5,000, the offense is a Class C felony classified as crime category 3 of
24 the sentencing guidelines grid of the Oregon Criminal Justice Com-
25 mission.

26 “(c) If the amount of inhalant product tax avoided in committing
27 the offense over a 90-day period totals \$5,000 or more, but less than
28 \$10,000, the offense is a Class C felony classified as crime category 5
29 of the sentencing guidelines grid of the Oregon Criminal Justice
30 Commission.

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

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

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

13 “(5) As used in this section, ‘inhalant product tax’ means the
14 amount of tax due under sections 1 to 11 of this 2017 Act, if the tax
15 was timely paid upon first distribution of the inhalant product in this
16 state.

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

20 “SECTION 22. (1) As used in this section, ‘premises’ means a place
21 of business:

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

23 “(b) That the Department of Revenue has reasonable cause to be-
24 lieve is used for the sale or distribution of inhalant product.

25 “(2) The Department of Revenue may enter and examine the prem-
26 ises of any person or business at any time an individual is present. If
27 the department seeks entry under this section outside of regular
28 business hours, this section requires that department personnel have
29 reasonable cause to believe that an individual is present in the prem-
30 ises. The department may enter and examine:

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

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

7 “(3) The department may examine:

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

10 “(b) Books, papers, records or equipment reasonably necessary to
11 comply with the provisions of sections 1 to 25 of this 2017 Act; and

12 “(c) Inhalant product.

13 “(4) A person may not interfere with or hinder an entry or exam-
14 ination by the department under this section.

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

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

24 “(2) Notwithstanding ORS 305.280, a seizure and forfeiture made
25 under this section may be appealed to the magistrate division of the
26 tax court within 30 days of the date of the seizure in the manner pre-
27 scribed in ORS 305.404 to 305.560.

28 “SECTION 24. (1) To promote administrative and regulatory effi-
29 ciency and compliance with laws regulating or taxing inhalant prod-
30 uct, the Department of Revenue may transmit information obtained

1 under sections 1 to 25 of this 2017 Act to the proper officers of gov-
2 ernmental units inside and outside Oregon that:

3 “(a) Regulate or tax inhalant product or enforce laws relating to
4 inhalant product; and

5 “(b) Reciprocate in the exchange of relevant information.

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

9 **“SECTION 25. (1) The Director of the Department of Revenue is**
10 **authorized to enter into an inhalant product tax refund agreement**
11 **with the governing body of any Indian reservation in this state. The**
12 **agreement may provide for a mutually agreed upon amount as a re-**
13 **fund to the governing body of any inhalant product tax collected under**
14 **sections 1 to 11 of this 2017 Act in connection with the sale of inhalant**
15 **product to Indians on the Indian reservation, or the use, storage or**
16 **consumption of inhalant product by Indians on the Indian reservation.**
17 **This provision is in addition to other laws allowing tax refunds.**

18 “(2) There is continuously appropriated to the director, from the
19 suspense account established under ORS 293.445 and section 10 of this
20 2017 Act, the amounts necessary to make the refunds provided by
21 subsection (1) of this section.

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

24 “131.602. The crimes to which ORS 131.550 (12)(b) applies are:

25 “(1) Bribe giving, as defined in ORS 162.015.

26 “(2) Bribe receiving, as defined in ORS 162.025.

27 “(3) Public investment fraud, as defined in ORS 162.117.

28 “(4) Bribing a witness, as defined in ORS 162.265.

29 “(5) Bribe receiving by a witness, as defined in ORS 162.275.

30 “(6) Simulating legal process, as defined in ORS 162.355.

- 1 “(7) Official misconduct in the first degree, as defined in ORS 162.415.
- 2 “(8) Assisting another person to commit suicide, as defined in ORS
3 163.193.
- 4 “(9) Custodial interference in the second degree, as defined in ORS
5 163.245.
- 6 “(10) Custodial interference in the first degree, as defined in ORS 163.257.
- 7 “(11) Buying or selling a person under 18 years of age, as defined in ORS
8 163.537.
- 9 “(12) Using a child in a display of sexually explicit conduct, as defined
10 in ORS 163.670.
- 11 “(13) Encouraging child sexual abuse in the first degree, as defined in
12 ORS 163.684.
- 13 “(14) Encouraging child sexual abuse in the second degree, as defined in
14 ORS 163.686.
- 15 “(15) Encouraging child sexual abuse in the third degree, as defined in
16 ORS 163.687.
- 17 “(16) Possession of materials depicting sexually explicit conduct of a child
18 in the first degree, as defined in ORS 163.688.
- 19 “(17) Possession of materials depicting sexually explicit conduct of a child
20 in the second degree, as defined in ORS 163.689.
- 21 “(18) Theft in the second degree, as defined in ORS 164.045.
- 22 “(19) Theft in the first degree, as defined in ORS 164.055.
- 23 “(20) Aggravated theft in the first degree, as defined in ORS 164.057.
- 24 “(21) Extortion, as defined in ORS 164.075.
- 25 “(22) Theft by deception, as defined in ORS 164.085, if it is a felony or a
26 Class A misdemeanor.
- 27 “(23) Theft by receiving, as defined in ORS 164.095, if it is a felony or a
28 Class A misdemeanor.
- 29 “(24) Theft of services, as defined in ORS 164.125, if it is a felony or a
30 Class A misdemeanor.

- 1 “(25) Unauthorized use of a vehicle, as defined in ORS 164.135.
- 2 “(26) Mail theft or receipt of stolen mail, as defined in ORS 164.162.
- 3 “(27) Laundering a monetary instrument, as defined in ORS 164.170.
- 4 “(28) Engaging in a financial transaction in property derived from un-
5 lawful activity, as defined in ORS 164.172.
- 6 “(29) Burglary in the second degree, as defined in ORS 164.215.
- 7 “(30) Burglary in the first degree, as defined in ORS 164.225.
- 8 “(31) Possession of a burglary tool or theft device, as defined in ORS
9 164.235.
- 10 “(32) Unlawful entry into a motor vehicle, as defined in ORS 164.272.
- 11 “(33) Arson in the second degree, as defined in ORS 164.315.
- 12 “(34) Arson in the first degree, as defined in ORS 164.325.
- 13 “(35) Computer crime, as defined in ORS 164.377.
- 14 “(36) Robbery in the third degree, as defined in ORS 164.395.
- 15 “(37) Robbery in the second degree, as defined in ORS 164.405.
- 16 “(38) Robbery in the first degree, as defined in ORS 164.415.
- 17 “(39) Unlawful labeling of a sound recording, as defined in ORS 164.868.
- 18 “(40) Unlawful recording of a live performance, as defined in ORS 164.869.
- 19 “(41) Unlawful labeling of a videotape recording, as defined in ORS
20 164.872.
- 21 “(42) A violation of ORS 164.886.
- 22 “(43)(a) Endangering aircraft in the first degree, as defined in ORS
23 164.885.
- 24 “(b) Endangering aircraft in the second degree, as defined in ORS 164.885.
- 25 “(44) Interference with agricultural operations, as defined in ORS 164.887.
- 26 “(45) Forgery in the second degree, as defined in ORS 165.007.
- 27 “(46) Forgery in the first degree, as defined in ORS 165.013.
- 28 “(47) Criminal possession of a forged instrument in the second degree, as
29 defined in ORS 165.017.
- 30 “(48) Criminal possession of a forged instrument in the first degree, as

1 defined in ORS 165.022.

2 “(49) Criminal possession of a forgery device, as defined in ORS 165.032.

3 “(50) Criminal simulation, as defined in ORS 165.037.

4 “(51) Fraudulently obtaining a signature, as defined in ORS 165.042.

5 “(52) Fraudulent use of a credit card, as defined in ORS 165.055.

6 “(53) Negotiating a bad check, as defined in ORS 165.065.

7 “(54) Possessing a fraudulent communications device, as defined in ORS

8 165.070.

9 “(55) Unlawful factoring of a payment card transaction, as defined in ORS

10 165.074.

11 “(56) Falsifying business records, as defined in ORS 165.080.

12 “(57) Sports bribery, as defined in ORS 165.085.

13 “(58) Sports bribe receiving, as defined in ORS 165.090.

14 “(59) Misapplication of entrusted property, as defined in ORS 165.095.

15 “(60) Issuing a false financial statement, as defined in ORS 165.100.

16 “(61) Obtaining execution of documents by deception, as defined in ORS

17 165.102.

18 “(62) A violation of ORS 165.543.

19 “(63) Cellular counterfeiting in the third degree, as defined in ORS

20 165.577.

21 “(64) Cellular counterfeiting in the second degree, as defined in ORS

22 165.579.

23 “(65) Cellular counterfeiting in the first degree, as defined in ORS 165.581.

24 “(66) Identity theft, as defined in ORS 165.800.

25 “(67) A violation of ORS 166.190.

26 “(68) Unlawful use of a weapon, as defined in ORS 166.220.

27 “(69) A violation of ORS 166.240.

28 “(70) Unlawful possession of a firearm, as defined in ORS 166.250.

29 “(71) A violation of ORS 166.270.

30 “(72) Unlawful possession of a machine gun, short-barreled rifle, short-

1 barreled shotgun or firearms silencer, as defined in ORS 166.272.
2 “(73) A violation of ORS 166.275.
3 “(74) Unlawful possession of armor piercing ammunition, as defined in
4 ORS 166.350.
5 “(75) A violation of ORS 166.370.
6 “(76) Unlawful possession of a destructive device, as defined in ORS
7 166.382.
8 “(77) Unlawful manufacture of a destructive device, as defined in ORS
9 166.384.
10 “(78) Possession of a hoax destructive device, as defined in ORS 166.385.
11 “(79) A violation of ORS 166.410.
12 “(80) Providing false information in connection with a transfer of a
13 firearm, as defined in ORS 166.416.
14 “(81) Improperly transferring a firearm, as defined in ORS 166.418.
15 “(82) Unlawfully purchasing a firearm, as defined in ORS 166.425.
16 “(83) A violation of ORS 166.429.
17 “(84) A violation of ORS 166.470.
18 “(85) A violation of ORS 166.480.
19 “(86) A violation of ORS 166.635.
20 “(87) A violation of ORS 166.638.
21 “(88) Unlawful paramilitary activity, as defined in ORS 166.660.
22 “(89) A violation of ORS 166.720.
23 “(90) Prostitution, as defined in ORS 167.007.
24 “(91) Commercial sexual solicitation, as defined in ORS 167.008.
25 “(92) Promoting prostitution, as defined in ORS 167.012.
26 “(93) Compelling prostitution, as defined in ORS 167.017.
27 “(94) Exhibiting an obscene performance to a minor, as defined in ORS
28 167.075.
29 “(95) Unlawful gambling in the second degree, as defined in ORS 167.122.
30 “(96) Unlawful gambling in the first degree, as defined in ORS 167.127.

- 1 “(97) Possession of gambling records in the second degree, as defined in
2 ORS 167.132.
- 3 “(98) Possession of gambling records in the first degree, as defined in ORS
4 167.137.
- 5 “(99) Possession of a gambling device, as defined in ORS 167.147.
- 6 “(100) Possession of a gray machine, as defined in ORS 167.164.
- 7 “(101) Cheating, as defined in ORS 167.167.
- 8 “(102) Tampering with drug records, as defined in ORS 167.212.
- 9 “(103) A violation of ORS 167.262.
- 10 “(104) Research and animal interference, as defined in ORS 167.312.
- 11 “(105) Animal abuse in the first degree, as defined in ORS 167.320.
- 12 “(106) Aggravated animal abuse in the first degree, as defined in ORS
13 167.322.
- 14 “(107) Animal neglect in the first degree, as defined in ORS 167.330.
- 15 “(108) Interfering with an assistance, a search and rescue or a therapy
16 animal, as defined in ORS 167.352.
- 17 “(109) Involvement in animal fighting, as defined in ORS 167.355.
- 18 “(110) Dogfighting, as defined in ORS 167.365.
- 19 “(111) Participation in dogfighting, as defined in ORS 167.370.
- 20 “(112) Unauthorized use of a livestock animal, as defined in ORS 167.385.
- 21 “(113) Interference with livestock production, as defined in ORS 167.388.
- 22 “(114) A violation of ORS 167.390.
- 23 “(115) Participation in cockfighting, as defined in ORS 167.431.
- 24 “(116) A violation of ORS 471.410.
- 25 “(117) Failure to report missing precursor substances, as defined in ORS
26 475.955.
- 27 “(118) Illegally selling drug equipment, as defined in ORS 475.960.
- 28 “(119) Providing false information on a precursor substances report, as
29 defined in ORS 475.965.
- 30 “(120) Unlawful delivery of an imitation controlled substance, as defined

1 in ORS 475.912.

2 “(121) A violation of ORS 475.752, if it is a felony or a Class A
3 misdemeanor.

4 “(122) A violation of ORS 475.914, if it is a felony or a Class A
5 misdemeanor.

6 “(123) A violation of ORS 475.916.

7 “(124) A violation of ORS 475.906, if it is a felony or a Class A
8 misdemeanor.

9 “(125) A violation of ORS 475.904.

10 “(126) Misuse of an identification card, as defined in ORS 807.430.

11 “(127) Unlawful production of identification cards, licenses, permits, forms
12 or camera cards, as defined in ORS 807.500.

13 “(128) Transfer of documents for the purposes of misrepresentation, as
14 defined in ORS 807.510.

15 “(129) Using an invalid license, as defined in ORS 807.580.

16 “(130) Permitting misuse of a license, as defined in ORS 807.590.

17 “(131) Using another’s license, as defined in ORS 807.600.

18 “(132) Criminal driving while suspended or revoked, as defined in ORS
19 811.182.

20 “(133) Aggravated driving while suspended or revoked, as defined in ORS
21 163.196.

22 “(134) Driving while under the influence of intoxicants, as defined in ORS
23 813.010, when it is a felony.

24 “(135) Unlawful distribution of cigarettes, as defined in ORS 323.482.

25 “(136) Unlawful distribution of tobacco products, as defined in ORS
26 323.632.

27 “(137) A violation of ORS 180.440 (2) or 180.486 (2).

28 “(138) A violation described in ORS 475.806 to 475.894, if it is a felony.

29 “(139) Subjecting another person to involuntary servitude in the first de-
30 gree, as defined in ORS 163.264.

1 “(140) Subjecting another person to involuntary servitude in the second
2 degree, as defined in ORS 163.263.

3 “(141) Trafficking in persons, as defined in ORS 163.266.

4 “(142) Luring a minor, as defined in ORS 167.057.

5 “(143) Online sexual corruption of a child in the second degree, as defined
6 in ORS 163.432.

7 “(144) Online sexual corruption of a child in the first degree, as defined
8 in ORS 163.433.

9 “(145) **Unlawful distribution of inhalant product, as defined in sec-**
10 **tion 20 of this 2017 Act.**

11 “[*(145)*] (146) An attempt, conspiracy or solicitation to commit a crime in
12 subsections (1) to [*(144)*] (145) of this section if the attempt, conspiracy or
13 solicitation is a felony or a Class A misdemeanor.

14 “**SECTION 27. Sections 1 to 25 of this 2017 Act apply to inhalant**
15 **product sold on or after January 1, 2018.**

16 “**SECTION 28. (1) Sections 13 to 16 of this 2017 Act become operative**
17 **on January 1, 2018.**

18 “(2) **The Department of Revenue may take any action before the**
19 **operative date specified in subsection (1) of this section that is neces-**
20 **sary to enable the department to exercise, on and after the operative**
21 **date specified in subsection (1) of this section, all the duties, functions**
22 **and powers conferred on the department by sections 13 to 16 of this**
23 **2017 Act.**

24 “**SECTION 29. This 2017 Act takes effect on the 91st day after the**
25 **date on which the 2017 regular session of the Seventy-ninth Legislative**
26 **Assembly adjourns sine die.”**

27