

# House Bill 3266

Sponsored by Representative GREENLICK

## 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**.

Increases cigarette tax. Applies increase to cigarettes distributed on or after January 1, 2020, and to existing inventories of cigarettes not yet acquired by consumers as of January 1, 2020. Provides for distribution of revenues from increased tax. Prohibits distribution or sale of lower cost cigars in packages containing fewer than four cigars.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to products containing tobacco; creating new provisions; amending ORS 323.031, 323.457  
3 and 431A.175; prescribing an effective date; and providing for revenue raising that requires ap-  
4 proval by a three-fifths majority.

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

6 **SECTION 1.** ORS 323.031 is amended to read:

7 323.031. (1) Notwithstanding ORS 323.030 (2) and in addition to and not in lieu of any other tax,  
8 every distributor shall pay a tax upon distributions of cigarettes at the rate of [30] **130** mills for the  
9 distribution of each cigarette in this state.

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

12 **SECTION 2.** ORS 323.457 is amended to read:

13 323.457. (1) Moneys received under ORS 323.031 shall be paid over to the State Treasurer to be  
14 held in a suspense account established under ORS 293.445. After the payment of refunds:

15 (a) [29.37/30] **29.37/130** of the moneys shall be credited to the Oregon Health Plan Fund estab-  
16 lished under ORS 414.109;

17 (b) [0.14/30] **0.14/130** of the moneys are continuously appropriated to the Oregon Department of  
18 Administrative Services for distribution to the cities of this state;

19 (c) [0.14/30] **0.14/130** of the moneys are continuously appropriated to the Oregon Department of  
20 Administrative Services for distribution to the counties of this state;

21 (d) [0.14/30] **0.14/130** of the moneys are continuously appropriated to the Department of Trans-  
22 portation to be distributed and transferred to the Elderly and Disabled Special Transportation Fund  
23 established under ORS 391.800; [and]

24 (e) [0.21/30] **0.21/130** of the moneys shall be credited to the Tobacco Use Reduction Account  
25 established under ORS 431A.153[.];

26 (f) **80/130 of the moneys are continuously appropriated to the Oregon Health Authority**  
27 **for use in the medical assistance program under ORS chapter 414;**

28 (g) **10/130 of the moneys are continuously appropriated to the Oregon Health Authority**  
29 **for tobacco addiction prevention and chronic disease prevention; and**

30 (h) **10/130 of the moneys are continuously appropriated to the Oregon Health Authority**

**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 **for statewide public health modernization programs.**

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

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

7 **SECTION 3.** (1) **In addition to and not in lieu of any other tax, for the privilege of holding**  
8 **or storing cigarettes for sale, use or consumption, a floor tax is imposed upon every dealer**  
9 **at the rate of 100 mills for each cigarette in the possession of or under the control of the**  
10 **dealer in this state at 12:01 a.m. on January 1, 2020.**

11 (2) **The tax imposed by this section is due and payable on or before January 20, 2020. Any**  
12 **amount of tax that is not paid within the time required shall bear interest at the rate es-**  
13 **tablished under ORS 305.220 per month, or fraction of a month, from the date on which the**  
14 **tax is due to be paid, until paid.**

15 (3) **By January 20, 2020, every dealer must file a report with the Department of Revenue**  
16 **in such form as the department may prescribe. The report must state the number of ciga-**  
17 **rettes in the possession of or under the control of the dealer in this state at 12:01 a.m. on**  
18 **January 1, 2020, and the amount of tax due. Each report must be accompanied by a remit-**  
19 **tance payable to the department for the amount of tax due.**

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

21 **SECTION 4.** **Notwithstanding ORS 323.030 (3), for the privilege of distributing cigarettes**  
22 **as a distributor, as defined in ORS 323.015, and for holding or storing cigarettes for sale, use**  
23 **or consumption, a floor tax and cigarette adjustment indicia tax is imposed upon every dis-**  
24 **tributor in the amount of \$2.50 for each Oregon cigarette tax stamp bearing the designation**  
25 **“25,” and in the amount of \$2 for each Oregon cigarette tax stamp bearing the designation**  
26 **“20,” that is affixed to any package of cigarettes in the possession of or under the control**  
27 **of the distributor at 12:01 a.m. on January 1, 2020.**

28 **SECTION 5.** (1) **Every distributor as defined in ORS 323.015 must take an inventory as**  
29 **of 12:01 a.m. on January 1, 2020, of all packages of cigarettes to which are affixed Oregon**  
30 **cigarette tax stamps and of all unaffixed Oregon cigarette tax stamps in the possession of**  
31 **or under the control of the distributor.**

32 (2) **Every distributor must file a report with the Department of Revenue by January 20,**  
33 **2020, in such form as the department may prescribe, showing:**

34 (a) **The number of Oregon cigarette tax stamps, with the designations of the stamps, that**  
35 **were affixed to packages of cigarettes in the possession of or under the control of the dis-**  
36 **tributor at 12:01 a.m. on January 1, 2020; and**

37 (b) **The number of unaffixed Oregon cigarette tax stamps, with the designations of the**  
38 **stamps, that were in the possession of or under the control of the distributor at 12:01 a.m.**  
39 **on January 1, 2020.**

40 (3) **The amount of tax required to be paid with respect to the affixed Oregon cigarette**  
41 **tax stamps shall be computed pursuant to section 4 of this 2019 Act and remitted with the**  
42 **distributor’s report. Any amount of tax not paid within the time specified for the filing of**  
43 **the report shall bear interest at the rate established under ORS 305.220 per month, or frac-**  
44 **tion of a month, from the due date of the report until paid.**

45 **SECTION 6.** **All moneys received by the Department of Revenue from the taxes imposed**

1 **by sections 3 and 4 of this 2019 Act shall be paid over to the State Treasurer to be held in**  
2 **a suspense account established under ORS 293.445. After payment of refunds, the balance**  
3 **shall be credited to the General Fund.**

4 **SECTION 7. The amendments to ORS 323.031 and 323.457 by sections 1 and 2 of this 2019**  
5 **Act apply to cigarette tax reporting periods beginning on or after January 1, 2020.**

6 **SECTION 8.** ORS 431A.175 is amended to read:

7 431A.175. (1) As used in this section and ORS 431A.183:

8 (a)(A) "Inhalant delivery system" means:

9 (i) A device that can be used to deliver nicotine or cannabinoids in the form of a vapor or aer-  
10 osol to a person inhaling from the device; or

11 (ii) A component of a device described in this subparagraph or a substance in any form sold for  
12 the purpose of being vaporized or aerosolized by a device described in this subparagraph, whether  
13 the component or substance is sold separately or is not sold separately.

14 (B) "Inhalant delivery system" does not include:

15 (i) Any product that has been approved by the United States Food and Drug Administration for  
16 sale as a tobacco cessation product or for any other therapeutic purpose, if the product is marketed  
17 and sold solely for the approved purpose; and

18 (ii) Tobacco products.

19 (b) "Tobacco products" means:

20 (A) Bidis, cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed and  
21 other smoking tobacco, snuff, snuff flour, cavendish, plug and twist tobacco, fine-cut and other  
22 chewing tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of tobacco and other  
23 forms of tobacco, prepared in a manner that makes the tobacco suitable for chewing or smoking in  
24 a pipe or otherwise, or for both chewing and smoking;

25 (B) Cigarettes as defined in ORS 323.010 (1); or

26 (C) A device that:

27 (i) Can be used to deliver tobacco products to a person using the device; and

28 (ii) Has not been approved by the United States Food and Drug Administration for sale as a  
29 tobacco cessation product or for any other therapeutic purpose, if the product is marketed and sold  
30 solely for the approved purpose.

31 (2) It is unlawful:

32 (a) To violate ORS 167.750.

33 (b) To fail as a retailer of tobacco products to post a notice substantially similar to the notice  
34 described in subsection (3) of this section in a location that is clearly visible to the seller and the  
35 purchaser of the tobacco products.

36 (c) To fail as a retailer of inhalant delivery systems to post a notice in a location that is clearly  
37 visible to the seller and the purchaser of the inhalant delivery systems that it is unlawful to sell  
38 inhalant delivery systems to persons under 21 years of age. The Oregon Health Authority shall  
39 adopt by rule the content of the notice required under this paragraph.

40 (d) To distribute, sell or allow to be sold an inhalant delivery system if the inhalant delivery  
41 system is not labeled in accordance with rules adopted by the authority.

42 (e) To distribute, sell or allow to be sold an inhalant delivery system if the inhalant delivery  
43 system is not packaged in child-resistant safety packaging, as required by the authority by rule.

44 (f) To distribute, sell or allow to be sold an inhalant delivery system if the inhalant delivery  
45 system is packaged in a manner that is attractive to minors, as determined by the authority by rule.

1 (g) To distribute, sell or allow to be sold cigarettes in any form other than a sealed package.

2 **(h) To distribute, sell or allow to be sold cigars, as defined in ORS 323.500, in any package**  
3 **containing fewer than four cigars, unless the wholesale price of an individual cigar exceeds**  
4 **\$3.**

5 (3) The notice required by subsection (2)(b) of this section must be substantially as follows:  
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7  
8 NOTICE

9 The sale of tobacco in any form to persons under 21 years of age is prohibited by law. Any  
10 person who sells, or allows to be sold, tobacco to a person under 21 years of age is in violation of  
11 Oregon law.  
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14 (4) Rules adopted under subsection (2)(d), (e) and (f) of this section must be consistent with any  
15 regulation adopted by the United States Food and Drug Administration related to labeling or pack-  
16 aging requirements for inhalant delivery systems.

17 **SECTION 9. This 2019 Act takes effect on the 91st day after the date on which the 2019**  
18 **regular session of the Eightieth Legislative Assembly adjourns sine die.**  
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