

# House Bill 3436

Sponsored by Representatives MARSH, BYNUM; Representatives KENY-GUYER, WILDE

## 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**.

Prohibits person from mailing or shipping cigars or inhalant delivery system without meeting certain requirements. Authorizes Oregon Health Authority to adopt rules.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to age-restricted goods; creating new provisions; amending ORS 431A.178; and prescribing  
3 an effective date.

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

5 **SECTION 1. (1) As used in this section:**

6 (a) **"Cigar" has the meaning given that term in ORS 323.500.**

7 (b) **"Delivery sale" means a sale of a cigar or inhalant delivery system to a consumer in  
8 this state in which the consumer submits the order for the sale via telephone or other voice  
9 transmission, a delivery service or the Internet or other data transmission service, regard-  
10 less of where the seller is located.**

11 (c) **"Inhalant delivery system" has the meaning given that term in ORS 431A.175.**

12 (2) **Prior to selling, offering for sale, giving or otherwise providing to a prospective con-  
13 sumer a cigar or inhalant delivery system in a delivery sale, a person who sells, offers to sell,  
14 gives or otherwise provides a cigar or inhalant delivery system shall:**

15 (a) **Verify that the prospective consumer of the cigar or inhalant delivery system is at  
16 least 21 years of age by performing age verification through an independent, third-party  
17 verification service that compares information available from public records to the personal  
18 information entered by the prospective consumer during the process of ordering the cigar  
19 or inhalant delivery system in a delivery sale;**

20 (b) **Obtain from the prospective consumer a certification that includes a written state-  
21 ment signed by the prospective consumer that:**

22 (A) **Certifies the prospective consumer's address and that the prospective consumer is  
23 at least 21 years of age; and**

24 (B) **Confirms that the prospective consumer understands that signing another person's  
25 name to the certification is illegal, that the sale of a cigar or inhalant delivery system, as  
26 applicable, to an individual under 21 years of age is illegal and that the purchase of a cigar  
27 or inhalant delivery system, as applicable, by an individual under 21 years of age is illegal;**

28 (c) **Provide a notice to the prospective consumer, via electronic mail or other means, that  
29 meets the requirements of subsection (3) of this section; and**

30 (d) **In the case of an order for a cigar or inhalant delivery system through the Internet  
31 or other data transmission service, receive payment for the delivery sale from the prospec-**

**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 **tive consumer by a credit or debit card that has been issued in the name of the prospective**  
2 **consumer or by a personal check issued by the prospective consumer.**

3 **(3) The notice required under subsection (2) of this section must include a prominent and**  
4 **clearly legible statement that sales of cigars or inhalant delivery systems, as applicable:**

5 **(a) To individuals who are under 21 years of age are illegal; and**

6 **(b) Are restricted to those individuals for whom proof of age is verified in accordance**  
7 **with subsection (2) of this section.**

8 **(4) The Oregon Health Authority may adopt rules to carry out this section.**

9 **SECTION 2.** ORS 431A.178 is amended to read:

10 431A.178. (1) The Oregon Health Authority may impose a civil penalty for each violation of ORS  
11 431A.175 **and section 1 of this 2019 Act.** A civil penalty imposed under this section may not be less  
12 than \$250 or more than \$1,000.

13 (2)(a) Amounts collected under subsection (1) of this section shall be deposited in the Oregon  
14 Health Authority Fund established under ORS 413.101. Except as provided in paragraph (b) of this  
15 subsection, moneys deposited in the fund under this subsection are continuously appropriated to the  
16 authority for carrying out the duties, functions and powers of the authority under ORS 431A.175 and  
17 431A.183 **and section 1 of this 2019 Act.**

18 (b) At the end of each biennium, the authority shall transfer the unobligated moneys collected  
19 under subsection (1) of this section remaining in the fund to the Tobacco Use Reduction Account  
20 established under ORS 431A.153.

21 **SECTION 3.** (1) **Section 1 of this 2019 Act and the amendments to ORS 431A.178 by sec-**  
22 **tion 2 of this 2019 Act become operative on January 1, 2020.**

23 **(2) The Oregon Health Authority may take any action before the operative date specified**  
24 **in subsection (1) of this section that is necessary to enable the authority to exercise, on and**  
25 **after the operative date specified in subsection (1) of this section, all of the duties, functions**  
26 **and powers conferred on the authority by section 1 of this 2019 Act and the amendments to**  
27 **ORS 431A.178 by section 2 of this 2019 Act.**

28 **SECTION 4.** **This 2019 Act takes effect on the 91st day after the date on which the 2019**  
29 **regular session of the Eightieth Legislative Assembly adjourns sine die.**

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