

HB 2270-14
(LC 388)
6/12/19 (CMT/ps)

Requested by HOUSE COMMITTEE ON REVENUE (at the request of Representative Nancy Nathanson)

**PROPOSED AMENDMENTS TO
HOUSE BILL 2270**

1 On page 1 of the printed bill, delete lines 3 and 4 and insert “323.031,
2 323.455, 323.457, 323.500, 323.505, 323.625, 323.640 and 431A.175; providing for
3 revenue raising that requires approval by a three-fifths majority; and pro-
4 viding that this Act shall be referred to the people for their approval or re-
5 jection.”.

6 Delete lines 6 through 26 and delete pages 2 through 8 and insert:

7 **“SECTION 1. ORS 323.031 is amended to read:**

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

12 **“(2) Notwithstanding ORS 323.030 (2) or subsection (1) of this section
13 and in addition to and not in lieu of any other tax, every distributor
14 shall pay a tax upon distributions of cigarettes at the rate of 100 mills
15 for the distribution of each cigarette in this state.**

16 “[~~(2)~~] (3) Any cigarette for which a tax has once been imposed under ORS
17 323.005 to 323.482 may not be subject upon a subsequent distribution to the
18 taxes imposed by ORS 323.005 to 323.482.

19 **“SECTION 2. Section 3 of this 2019 Act is added to and made a part
20 of ORS 323.005 to 323.482.**

21 **“SECTION 3. All moneys received by the Department of Revenue**

1 from the tax imposed by ORS 323.031 (2) shall be paid over to the State
2 Treasurer to be held in a suspense account established under ORS
3 293.445. The department shall pay expenses for administration and
4 enforcement of ORS 323.005 to 323.482 out of moneys received from the
5 tax imposed under ORS 323.031 (2). Moneys used for payment of ex-
6 penses under this section shall equal 60.61 percent of all expenses for
7 administration and enforcement of ORS 323.005 to 323.482. Amounts
8 necessary to pay administrative and enforcement expenses are con-
9 tinuously appropriated to the department from the suspense account.
10 After the payment of administrative and enforcement expenses and
11 refunds, the remaining balance shall be credited to the Oregon Health
12 Authority Fund established by ORS 413.101 to be used as follows:

13 “(1) 90 percent of the moneys are continuously appropriated to the
14 Oregon Health Authority for the purposes of funding the maintenance
15 and expansion of the number of persons eligible for medical assistance
16 and funding the maintenance of benefits available under the medical
17 assistance program, including mental health services.

18 “(2) 10 percent of the moneys are continuously appropriated to the
19 Oregon Health Authority for distribution to tribal health providers,
20 Urban Indian Health programs, regional health equity coalitions, cul-
21 turally specific and community-specific health programs and state and
22 local public health programs that address prevention and cessation of
23 tobacco and nicotine use by youth and adults, tobacco-related health
24 disparities and the prevention and management of chronic disease re-
25 lated to tobacco and nicotine.

26 “**SECTION 4.** ORS 323.455 is amended to read:

27 “323.455. (1) All moneys received by the Department of Revenue from the
28 tax imposed by ORS 323.030 (1) shall be paid over to the State Treasurer to
29 be held in a suspense account established under ORS 293.445. The department
30 may pay expenses for administration and enforcement of ORS 323.005 to

1 323.482 out of moneys received from the tax imposed under ORS 323.030 (1),
2 **after all amounts available under section 3 of this 2019 Act for ex-**
3 **penses for administration and enforcement of ORS 323.005 to 323.482**
4 **have been used.** Amounts necessary to pay administrative and enforcement
5 expenses are continuously appropriated to the department from the suspense
6 account. After the payment of administrative and enforcement expenses and
7 refunds, 89.65 percent shall be credited to the General Fund, 3.45 percent is
8 appropriated to the cities of this state, 3.45 percent is appropriated to the
9 counties of this state and 3.45 percent is continuously appropriated to the
10 Department of Transportation for the purpose of financing and improving
11 transportation services for elderly individuals and individuals with disabili-
12 ties as provided in ORS 391.800 to 391.830.

13 “(2) The moneys appropriated to cities and counties under subsection (1)
14 of this section shall be paid on a monthly basis within 35 days after the end
15 of the month for which a distribution is made. Each city shall receive such
16 share of the money appropriated to all cities as its population, as determined
17 under ORS 190.510 to 190.590 last preceding such apportionment, bears to the
18 total population of the cities of the state, and each county shall receive such
19 share of the money as its population, determined under ORS 190.510 to
20 190.590 last preceding such apportionment, bears to the total population of
21 the state.

22 “(3) The moneys appropriated to the Department of Transportation under
23 subsection (1) of this section shall be distributed and transferred to the El-
24 derly and Disabled Special Transportation Fund established by ORS 391.800
25 at the same time as the cigarette tax moneys are distributed to cities and
26 counties under this section.

27 “(4) Of the moneys credited to the General Fund under subsection (1) of
28 this section, 51.92 percent shall be dedicated to funding the maintenance and
29 expansion of the number of persons eligible for the medical assistance pro-
30 gram under ORS chapter 414, or to funding the maintenance of the benefits

1 available under the program, or both, and 5.77 percent shall be credited to
2 the Tobacco Use Reduction Account established under ORS 431A.153.

3 “(5) All moneys received by the Department of Revenue from the tax im-
4 posed by ORS 323.030 (4) shall be paid over to the State Treasurer to be held
5 in a suspense account established under ORS 293.445. After the payment of
6 refunds, the balance shall be credited to the Oregon Health Authority Fund
7 established by ORS 413.101 and shall be used to provide the services de-
8 scribed in ORS 430.630.

9 **“SECTION 5.** ORS 323.457 is amended to read:

10 “323.457. (1) Moneys received under ORS 323.031 (1) shall be paid over to
11 the State Treasurer to be held in a suspense account established under ORS
12 293.445. After the payment of refunds:

13 “(a) 29.37/30 of the moneys shall be credited to the [*Oregon Health Plan*
14 *Fund established under ORS 414.109*] **Oregon Health Authority Fund es-**
15 **tablished under ORS 413.101;**

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

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

22 “(d) 0.14/30 of the moneys are continuously appropriated to the Depart-
23 ment of Transportation to be distributed and transferred to the Elderly and
24 Disabled Special Transportation Fund established under ORS 391.800; and

25 “(e) 0.21/30 of the moneys shall be credited to the Tobacco Use Reduction
26 Account established under ORS 431A.153.

27 “(2)(a) Moneys distributed to cities and counties under this section shall
28 be distributed to each city or county using the proportions used for distrib-
29 utions made under ORS 323.455.

30 “(b) Moneys shall be distributed to cities, counties and the Elderly and

1 Disabled Special Transportation Fund at the same time moneys are distrib-
2 uted to cities, counties and the Elderly and Disabled Special Transportation
3 Fund under ORS 323.455.

4 **“SECTION 6.** ORS 323.010 is amended to read:

5 “323.010. As used in ORS 323.005 to 323.482, unless the context requires
6 otherwise:

7 “(1) ‘Cigarette’ means any product that contains nicotine, is intended to
8 be burned or heated under ordinary conditions of use and consists of or
9 contains:

10 “(a) Any roll of tobacco wrapped in paper or in any substance not con-
11 taining tobacco;

12 “(b) Tobacco, in any form, that is functional in the product and that, be-
13 cause of its appearance, the type of tobacco used in the filler or its packag-
14 ing and labeling, is likely to be offered to, or purchased by, consumers as a
15 cigarette; [or]

16 “(c) Any roll of tobacco that is wrapped in any substance containing to-
17 bacco and that, because of its appearance, the type of tobacco used in the
18 filler or its packaging and labeling, is likely to be offered to, or purchased
19 by, consumers as a cigarette described in paragraph (a) of this
20 subsection[.]; **or**

21 **“(d) A roll for smoking that is of any size or shape and that is made**
22 **wholly or in part of tobacco, irrespective of whether the tobacco is**
23 **pure or flavored, adulterated or mixed with any other ingredient, if the**
24 **roll has a wrapper made wholly or in greater part of tobacco and if**
25 **1,000 of these rolls collectively weigh not more than three pounds.**

26 “(2) ‘Cigarette activity in this state’:

27 “(a) Means importing, storing or manufacturing cigarettes in this state,
28 or exporting cigarettes out of this state, in order to sell the cigarettes either
29 within or outside this state.

30 “(b) Does not include importing, storing, manufacturing or exporting of

1 cigarettes that are to be consumed by the person doing the importing, stor-
2 ing, manufacturing or exporting.

3 “(3) ‘Contraband cigarettes’ means cigarettes or packages of cigarettes:

4 “(a) That do not comply with the requirements of ORS 323.005 to 323.482
5 or 323.856 or the cigarette tax laws of another state or the federal govern-
6 ment;

7 “(b) That bear trademarks that are counterfeit under ORS 647.135 or other
8 state or federal trademark laws; or

9 “(c) That have been sold, offered for sale or possessed for sale in this state
10 in violation of ORS 180.440.

11 “(4) ‘Department’ means the Department of Revenue.

12 “(5) ‘Dealer’ includes every person, other than a manufacturer or a person
13 holding a distributor’s license, who engages in this state in the sale of cig-
14 arettes.

15 “(6) ‘Exporting’ means the act of carrying or conveying goods from a
16 point of manufacture or storage in this state to a location outside this state
17 and may be further defined by the department by rule.

18 “(7) ‘Importing’ means the act of bringing goods to a point of storage in
19 this state from a location outside this state and may be further defined by
20 the department by rule.

21 “(8) ‘In this state’ means within the exterior limits of the State of Oregon
22 and includes all territory within these limits owned by or ceded to the
23 United States of America.

24 “(9) ‘Manufacturer’ means any person who makes, manufactures or fabri-
25 cates cigarettes for sale.

26 “(10) ‘Package’ means the individual package, box or other container in
27 which retail sales or gifts of cigarettes are normally made or intended to be
28 made.

29 “(11) ‘Person’ includes any individual, firm, copartnership, joint venture,
30 association, social club, fraternal organization, corporation, estate, trust,

1 receiver, trustee, syndicate, this state, any county, municipality, district or
2 other political subdivision of the state, or any other group or combination
3 acting as a unit.

4 “(12) ‘Sale’ includes any transfer of title or possession for a consideration,
5 exchange or barter, in any manner or by any means whatsoever, but does
6 not include the sale of cigarettes by a manufacturer to a distributor.

7 “(13) ‘Taxpayer’ means a distributor or other person required to pay a tax
8 under ORS 323.005 to 323.482, and includes a distributor required to prepay
9 a tax under ORS 323.068.

10 “(14) ‘Transporter’ means any person importing or transporting into this
11 state, or transporting in this state, cigarettes obtained from a source located
12 outside this state, or from any person not licensed as a distributor under
13 ORS 323.005 to 323.482. It does not include a licensed distributor, a common
14 carrier to whom is issued a certificate or permit by the United States Surface
15 Transportation Board to carry commodities in interstate commerce, or to a
16 carrier of federal tax-free cigarettes in bond, or any person transporting no
17 more than 199 cigarettes at any one time.

18 “(15) ‘Untaxed cigarette’ means any cigarette that has not yet been dis-
19 tributed in such manner as to result in a tax liability under ORS 323.005 to
20 323.482.

21 “(16) ‘Use or consumption’ includes the exercise of any right or power
22 over cigarettes incident to the ownership thereof, other than the sale of the
23 cigarettes or the keeping or retention thereof for the purpose of sale.

24 “(17) ‘Wholesaler’ means any dealer who engages in the sale of cigarettes
25 to any other dealer for purposes other than use or consumption.

26 **“SECTION 7. (1) In addition to and not in lieu of any other tax, for
27 the privilege of holding or storing cigarettes for sale, use or con-
28 sumption, a floor tax is imposed upon every dealer at the rate of 100
29 mills for each cigarette in the possession of or under the control of the
30 dealer in this state at 12:01 a.m. on January 1, 2021.**

1 “(2) By January 20, 2021, every dealer must file a report with the
2 Department of Revenue in such form as the department may prescribe.
3 The report must state the number of cigarettes in the possession of
4 or under the control of the dealer in this state at 12:01 a.m. on January
5 1, 2021, and the amount of tax due. Each report must be accompanied
6 by a remittance payable to the department for the amount of tax due.

7 “(3) One sixth of the amount of tax required to be paid with respect
8 to the affixed stamps shall be computed pursuant to this section and
9 remitted with the dealer’s report and by the 20th of each month
10 thereafter until the total tax under this section is paid. Any amount
11 of tax that is not paid within the time specified for the filing of the
12 report or payment of the tax shall bear interest at the rate established
13 under ORS 305.220 per month, or fraction of a month, from the date
14 on which the tax is due to be paid, until paid.

15 “(4) As used in this section, ‘dealer’ has the meaning given that
16 term in ORS 323.010.

17 “SECTION 8. Notwithstanding ORS 323.030 (3) or 323.031 (3), for the
18 privilege of distributing cigarettes as a distributor, as defined in ORS
19 323.015, and for holding or storing cigarettes for sale, use or con-
20 sumption, a floor tax and cigarette adjustment indicia tax is imposed
21 upon every distributor in the amount of \$2.50 for each Oregon ciga-
22 rette tax stamp bearing the designation ‘25,’ and in the amount of \$2
23 for each Oregon cigarette tax stamp bearing the designation ‘20,’ that
24 is affixed to any package of cigarettes in the possession of or under
25 the control of the distributor, or that is unaffixed, at 12:01 a.m. on
26 January 1, 2021.

27 “SECTION 9. (1) Every distributor, as defined in ORS 323.015, must
28 take an inventory as of 12:01 a.m. on January 1, 2021, of all packages
29 of cigarettes to which are affixed Oregon cigarette tax stamps and of
30 all unaffixed Oregon cigarette tax stamps in the possession of or under

1 the control of the distributor.

2 “(2) Every distributor must file a report with the Department of
3 Revenue by January 20, 2021, in such form as the department may
4 prescribe, showing:

5 “(a) The number of Oregon cigarette tax stamps, with the desig-
6 nations of the stamps, that were affixed to packages of cigarettes in
7 the possession of or under the control of the distributor at 12:01 a.m.
8 on January 1, 2021; and

9 “(b) The number of unaffixed Oregon cigarette tax stamps, with the
10 designations of the stamps, that were in the possession of or under the
11 control of the distributor at 12:01 a.m. on January 1, 2021.

12 “(3) One sixth of the amount of tax required to be paid with respect
13 to the affixed or unaffixed Oregon cigarette tax stamps shall be com-
14 puted pursuant to section 8 of this 2019 Act and remitted with the
15 distributor’s report and by the 20th of each month thereafter until the
16 total tax under section 8 of this 2019 Act is paid. Any amount of tax
17 not paid within the time specified for the filing of the report and
18 payment of the tax shall bear interest at the rate established under
19 ORS 305.220 per month, or fraction of a month, from the due date of
20 the report until paid.

21 **“SECTION 10.** All moneys received by the Department of Revenue
22 from the taxes imposed by sections 7 and 8 of this 2019 Act shall be
23 paid over to the State Treasurer to be held in a suspense account es-
24 tablished under ORS 293.445. After payment of refunds, the remaining
25 balance shall be credited to the Oregon Health Authority Fund estab-
26 lished by ORS 413.101.

27 **“SECTION 11.** ORS 323.500 is amended to read:

28 “323.500. As used in ORS 323.500 to 323.645, unless the context otherwise
29 requires:

30 “(1) ‘Business’ means any trade, occupation, activity or enterprise engaged

1 in for the purpose of selling or distributing tobacco products in this state.

2 “(2) ‘Cigar’ means a roll for smoking that is of any size or shape and that
3 is made wholly or in part of tobacco, irrespective of whether the tobacco is
4 pure or flavored, adulterated or mixed with any other ingredient, if the roll
5 has a wrapper made wholly or in greater part of tobacco and if 1,000 of these
6 rolls collectively weigh more than three pounds. ‘Cigar’ does not include a
7 cigarette, as defined in ORS 323.010.

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

11 “(4) ‘Contraband tobacco products’ means tobacco products or packages
12 containing tobacco products:

13 “(a) That do not comply with the requirements of ORS 323.500 to 323.645;

14 “(b) That do not comply with the requirements of the tobacco products
15 tax laws of the federal government or of other states;

16 “(c) That bear trademarks that are counterfeit under ORS 647.135 or other
17 state or federal trademark laws; or

18 “(d) That have been sold, offered for sale or possessed for sale in this
19 state in violation of ORS 180.486.

20 “(5) ‘Department’ means the Department of Revenue.

21 “(6) ‘Distribute’ means:

22 “(a) Bringing, or causing to be brought, into this state from without this
23 state tobacco products for sale, storage, use or consumption;

24 “(b) Making, manufacturing or fabricating tobacco products in this state
25 for sale, storage, use or consumption in this state;

26 “(c) Shipping or transporting tobacco products to retail dealers in this
27 state, to be sold, stored, used or consumed by those retail dealers;

28 “(d) Storing untaxed tobacco products in this state that are intended to
29 be for sale, use or consumption in this state;

30 “(e) Selling untaxed tobacco products in this state; or

1 “(f) As a consumer, being in possession of untaxed tobacco products in
2 this state.

3 “(7) ‘Distributor’ means:

4 “(a) Any person engaged in the business of selling tobacco products in
5 this state who brings, or causes to be brought, into this state from without
6 the state any tobacco products for sale;

7 “(b) Any person who makes, manufactures or fabricates tobacco products
8 in this state for sale in this state;

9 “(c) Any person engaged in the business of selling tobacco products
10 without this state who ships or transports tobacco products to retail dealers
11 in this state, to be sold by those retail dealers;

12 “(d) Any person, including a retail dealer, who sells untaxed tobacco
13 products in this state; or

14 “(e) A consumer in possession of untaxed tobacco products in this state.

15 “(8)(a) ‘Inhalant delivery system’ means:

16 “(A) A device that can be used to deliver nicotine in the form of a
17 vapor or aerosol to a person inhaling from the device; or

18 “(B) A component of a device described in this paragraph or a sub-
19 stance in any form sold for the purpose of being vaporized or
20 aerosolized by a device described in this paragraph, whether the com-
21 ponent or substance is sold separately or is not sold separately.

22 “(b) ‘Inhalant delivery system’ does not include:

23 “(A) Any product that has been approved by the United States Food
24 and Drug Administration for sale as a tobacco cessation product or for
25 any other therapeutic purpose, if the product is marketed and sold
26 solely for the approved purpose;

27 “(B) If sold separately, battery chargers, straps or lanyards; or

28 “(C) Marijuana items as defined in ORS 475B.015.

29 “[8] (9) ‘Manufacturer’ means a person who manufactures tobacco pro-
30 ducts for sale.

1 “[9] (10) ‘Moist snuff’ means:

2 “(a) Any finely cut, ground or powdered tobacco that is not intended to
3 be smoked or placed in a nasal cavity; or

4 “(b) Any other product containing tobacco that is intended or expected
5 to be consumed without being combusted.

6 “[10] (11) ‘Place of business’ means any place where tobacco products
7 are sold or where tobacco products are manufactured, stored or kept for the
8 purpose of sale or consumption, including any vessel, vehicle, airplane, train
9 or vending machine.

10 “[11] (12) ‘Retail dealer’ means any person who is engaged in the busi-
11 ness of selling or otherwise dispensing tobacco products to consumers. The
12 term also includes the operators of or recipients of revenue from all places
13 such as smoke shops, cigar stores and vending machines, where tobacco
14 products are made or stored for ultimate sale to consumers.

15 “[12] (13) ‘Sale’ means any transfer, exchange or barter, in any manner
16 or by any means, for a consideration, and includes and means all sales made
17 by any person. It includes a gift by a person engaged in the business of
18 selling tobacco products, for advertising, as a means of evading the pro-
19 visions of ORS 323.500 to 323.645, or for any other purpose.

20 “[13] (14) ‘Taxpayer’ includes a distributor or other person required to
21 pay a tax imposed under ORS 323.500 to 323.645.

22 “[14] (15) ‘Tobacco products’ means cigars, cheroots, stogies, periques,
23 granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco,
24 snuff, snuff flour, moist snuff, cavendish, plug and twist tobacco, fine-cut and
25 other chewing tobaccos, shorts, refuse scraps, clippings, cuttings and
26 sweepings of tobacco and other kinds and forms of tobacco, prepared in such
27 manner as to be suitable for chewing or smoking in a pipe or otherwise, or
28 both for chewing and smoking, **and inhalant delivery systems**, but *[shall]*
29 **does** not include cigarettes as defined in ORS 323.010.

30 “[15] (16) ‘Untaxed tobacco products’ means tobacco products for which

1 the tax required under ORS 323.500 to 323.645 has not been paid.

2 “[16] (17) ‘Wholesale sales price’ means the price paid for untaxed to-
3 bacco products to or on behalf of a seller by a purchaser of the untaxed to-
4 bacco products.

5 **“SECTION 12.** ORS 323.505 is amended to read:

6 “323.505. (1) A tax is hereby imposed upon the distribution of all tobacco
7 products in this state. The tax imposed by this section is intended to be a
8 direct tax on the consumer, for which payment upon distribution is required
9 to achieve convenience and facility in the collection and administration of
10 the tax. The tax shall be imposed on a distributor at the time the distributor
11 distributes tobacco products.

12 “(2) The tax imposed under this section shall be imposed at the rate of:

13 “[a] *Sixty-five percent of the wholesale sales price of cigars, but not to ex-
14 ceed 50 cents per cigar;*]

15 “[b] (a) One dollar and seventy-eight cents per ounce based on the net
16 weight determined by the manufacturer, in the case of moist snuff, except
17 that the minimum tax under this paragraph is \$2.14 per retail container; or

18 “[c] (b) Sixty-five percent of the wholesale sales price of all tobacco
19 products that are not [*cigars or*] moist snuff.

20 “(3) For reporting periods beginning on or after July 1, 2022, the rates
21 of tax applicable to moist snuff under subsection [(2)(b)] (2)(a) of this section
22 shall be adjusted for each biennium according to the cost-of-living adjust-
23 ment for the calendar year. The Department of Revenue shall recompute the
24 rates for each biennium by adding to the rates in subsection [(2)(b)] (2)(a)
25 of this section the product obtained by multiplying the rates in subsection
26 [(2)(b)] (2)(a) of this section by a factor that is equal to 0.25 multiplied by
27 the percentage (if any) by which the monthly averaged U.S. City Average
28 Consumer Price Index for the 12 consecutive months ending August 31 of the
29 prior calendar year exceeds the monthly averaged U.S. City Average Con-
30 sumer Price Index for the 12 consecutive months ending August 31, 2020.

1 “(4) If the tax imposed under this section does not equal an amount cal-
2 culable to a whole cent, the tax shall be equal to the next higher whole cent.
3 However, the amount remitted to the Department of Revenue by the taxpayer
4 for each quarter shall be equal only to 98.5 percent of the total taxes due
5 and payable by the taxpayer for the quarter.

6 “(5) A tax under this section is not imposed on inhalant delivery
7 systems that are:

8 “(a) Marketed and sold solely for the purpose of vaporizing or
9 aerosolizing marijuana items as defined in ORS 475B.015; or

10 “(b) Purchased in a medical marijuana dispensary that is registered
11 under ORS 475B.858 by a person to whom a registry identification card
12 has been issued under ORS 475B.797.

13 “[5] (6) No tobacco product shall be subject to the tax if the base prod-
14 uct or other intermediate form thereof has previously been taxed under this
15 section.

16 “**SECTION 13.** ORS 323.625 is amended to read:

17 “323.625. All moneys received by the Department of Revenue under ORS
18 323.500 to 323.645 shall be deposited in the State Treasury and credited to a
19 suspense account established under ORS 293.445. The department may pay
20 expenses for administration and enforcement of ORS 323.500 to 323.645 out
21 of moneys received from the taxes imposed under ORS 323.505 and 323.565.
22 Amounts necessary to pay administrative and enforcement expenses are
23 continuously appropriated to the department from the suspense account. Af-
24 ter the payment of administrative and enforcement expenses and refunds or
25 credits arising from erroneous overpayments, **and except as provided in**
26 **section 14 of this 2019 Act**, the balance of the money shall be credited to
27 the General Fund. Of the amount credited to the General Fund under this
28 section 41.54 percent shall be dedicated to funding the maintenance and ex-
29 pansion of the number of persons eligible for the medical assistance program
30 under ORS chapter 414, or to funding the maintenance of the benefits avail-

1 able under the program, or both, and 4.62 percent shall be credited to the
2 Tobacco Use Reduction Account established under ORS 431A.153.

3 **“SECTION 14. All moneys received by the Department of Revenue**
4 **under the tax imposed on inhalant delivery systems by ORS 323.505**
5 **shall be deposited in the State Treasury and credited to a suspense**
6 **account established under ORS 293.445. After the payment of refunds**
7 **or credits arising from erroneous overpayments, the remaining bal-**
8 **ance shall be distributed as follows:**

9 **“(1) 90 percent of the moneys are continuously appropriated to the**
10 **Oregon Health Authority for the purposes of funding the maintenance**
11 **and expansion of the number of persons eligible for medical assistance**
12 **and funding the maintenance of benefits available under the medical**
13 **assistance program, including mental health services.**

14 **“(2) 10 percent of the moneys are continuously appropriated to the**
15 **Oregon Health Authority for distribution to tribal health providers,**
16 **Urban Indian Health programs, regional health equity coalitions, cul-**
17 **turely specific and community-specific health programs and state and**
18 **local public health programs that address prevention and cessation of**
19 **tobacco and nicotine use by youth and adults, tobacco-related health**
20 **disparities and the prevention and management of chronic disease re-**
21 **lated to tobacco and nicotine.**

22 **“SECTION 15. ORS 323.640 is amended to read:**

23 **“323.640. (1) The taxes imposed by ORS 323.505 are in lieu of all other**
24 **state, county or municipal taxes on the sale or use of tobacco products.**

25 **“(2) Subsection (1) of this section does not apply to taxes imposed**
26 **on inhalant delivery systems.**

27 **“[(2)] (3) Any tobacco product with respect to which a tax has once been**
28 **imposed under ORS 323.505 shall not be subject upon a subsequent distrib-**
29 **ution to the taxes imposed by ORS 323.505.**

30 **“SECTION 16. ORS 431A.175 is amended to read:**

1 “431A.175. (1) As used in this section and ORS 431A.183:
2 “(a)(A) ‘Inhalant delivery system’ means:
3 “(i) A device that can be used to deliver nicotine or cannabinoids in the
4 form of a vapor or aerosol to a person inhaling from the device; or
5 “(ii) A component of a device described in this subparagraph or a sub-
6 stance in any form sold for the purpose of being vaporized or aerosolized by
7 a device described in this subparagraph, whether the component or substance
8 is sold separately or is not sold separately.
9 “(B) ‘Inhalant delivery system’ does not include:
10 “(i) Any product that has been approved by the United States Food and
11 Drug Administration for sale as a tobacco cessation product or for any other
12 therapeutic purpose, if the product is marketed and sold solely for the ap-
13 proved purpose; and
14 “(ii) Tobacco products.
15 “(b) ‘Tobacco products’ means:
16 “(A) Bidis, cigars, cheroots, stogies, periques, granulated, plug cut, crimp
17 cut, ready rubbed and other smoking tobacco, snuff, snuff flour, cavendish,
18 plug and twist tobacco, fine-cut and other chewing tobaccos, shorts, refuse
19 scraps, clippings, cuttings and sweepings of tobacco and other forms of to-
20 bacco, prepared in a manner that makes the tobacco suitable for chewing or
21 smoking in a pipe or otherwise, or for both chewing and smoking;
22 “(B) Cigarettes as defined in ORS 323.010 (1); or
23 “(C) A device that:
24 “(i) Can be used to deliver tobacco products to a person using the device;
25 and
26 “(ii) Has not been approved by the United States Food and Drug Admin-
27 istration for sale as a tobacco cessation product or for any other therapeutic
28 purpose, if the product is marketed and sold solely for the approved purpose.
29 “(2) It is unlawful:
30 “(a) To violate ORS 167.750.

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

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

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

12 “(e) To distribute, sell or allow to be sold an inhalant delivery system if
13 the inhalant delivery system is not packaged in child-resistant safety pack-
14 aging, as required by the authority by rule.

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

18 “(g) To distribute, sell or allow to be sold cigarettes in any form other
19 than a sealed package **that contains at least 20 cigarettes.**

20 “(h) **To distribute, sell or allow to be sold cigars, as defined in ORS**
21 **323.500, unless the wholesale price of an individual cigar exceeds \$3 or**
22 **the cigars are sold in a package containing at least four cigars and the**
23 **wholesale price of the package exceeds \$12.**

24 “(i) **To sell or allow to be sold a cigar at retail for less than the**
25 **wholesale price.**

26 “(3) The notice required by subsection (2)(b) of this section must be sub-
27 stantially as follows:

28 “ _____

29 NOTICE

30 The sale of tobacco in any form to persons under 21 years of age is pro-

1 hibited by law. Any person who sells, or allows to be sold, tobacco to a
2 person under 21 years of age is in violation of Oregon law.

3 “

4 “(4) Rules adopted under subsection (2)(d), (e) and (f) of this section must
5 be consistent with any regulation adopted by the United States Food and
6 Drug Administration related to labeling or packaging requirements for
7 inhalant delivery systems.

8 **“SECTION 17. (1) The amendments to ORS 323.010, 323.031, 323.455**
9 **and 323.457 by sections 1 and 4 to 6 of this 2019 Act apply to cigarette**
10 **tax reporting periods beginning on or after January 1, 2021.**

11 **“(2) The amendments to ORS 323.500, 323.505 and 323.625 by sections**
12 **11 to 13 of this 2019 Act apply to tobacco products tax reporting periods**
13 **beginning on or after January 1, 2021.**

14 **“SECTION 18. Section 19 of this 2019 Act is added to and made a**
15 **part of ORS 323.005 to 323.482.**

16 **“SECTION 19. (1) Notwithstanding the confidentiality provisions of**
17 **ORS 323.403, the Department of Revenue may disclose information re-**
18 **ceived under ORS 323.005 to 323.482 to the Oregon Health Authority to**
19 **carry out the provisions of ORS 167.750 to 167.785, 431A.175 or 431A.183.**

20 **“(2) The authority may disclose information obtained pursuant to**
21 **ORS 431A.175 or 431A.183 to the department for the purpose of carrying**
22 **out the provisions of ORS 323.005 to 323.482, provided that the author-**
23 **ity does not disclose personally identifiable information.**

24 **“SECTION 20. Section 21 of this 2019 Act is added to and made a**
25 **part of ORS 323.500 to 323.645.**

26 **“SECTION 21. (1) Notwithstanding the confidentiality provisions of**
27 **ORS 323.595, the Department of Revenue may disclose information re-**
28 **ceived under ORS 323.500 to 323.645 to the Oregon Health Authority to**
29 **carry out the provisions of ORS 167.750 to 167.785, 431A.175 or 431A.183.**

30 **“(2) The authority may disclose information obtained pursuant to**

1 **ORS 431A.175 or 431A.183 to the department for the purpose of carrying**
2 **out the provisions of ORS 323.500 to 323.645, provided that the author-**
3 **ity does not disclose personally identifiable information.**

4 **“SECTION 22. This 2019 Act shall be submitted to the people for**
5 **their approval or rejection at the next regular general election held**
6 **throughout this state.”.**

7
