

**A-Engrossed**  
**House Bill 3090**

Ordered by the House April 10  
Including House Amendments dated April 10

Sponsored by Representative REYNOLDS, Senator HANSELL, Representative PHAM H, Senator STEINER; Representatives BOWMAN, DEXTER, GAMBA, GRAYBER, LEVY E, NELSON, RUIZ, TRAN

**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.

Prohibits distributing, selling, attempting to sell or allowing to be sold flavored inhalant delivery system product or flavored tobacco product in this state. **Exempts existing hookah lounges.** Defines "flavored inhalant delivery system product" and "flavored tobacco product."

*[Declares emergency, effective on passage.]*

**A BILL FOR AN ACT**

Relating to characterizing flavors; creating new provisions; and amending ORS 431A.175.

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

**SECTION 1.** ORS 431A.175 is amended to read:

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

(a)(A) **"Characterizing flavor" means an artificial or natural taste, flavor, aroma or smell, other than the taste, flavor, aroma or smell of tobacco, that is distinguishable or distinctive prior to or during consumption, including but not limited to any taste, flavor, aroma or smell relating to fruit, menthol, mint, wintergreen, chocolate, cocoa, vanilla, honey, molasses or any candy, dessert, alcoholic beverage, herb or spice.**

(B) **"Characterizing flavor" does not include the artificial or natural taste, flavor, aroma or smell of cannabis.**

(b) **"Flavored inhalant delivery system product" means an inhalant delivery system product that imparts a characterizing flavor.**

(c) **"Flavored tobacco product" means a tobacco product manufactured to impart a characterizing flavor.**

[(A)] (d)(A) **"Inhalant delivery system" means:**

(i) A device that can be used to deliver [*nicotine or*] cannabinoids **or natural or synthetic nicotine** in the form of a vapor or aerosol to a person inhaling from the device; or

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

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

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

**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 (ii) Tobacco products.

2 [(b)] (e) "Tobacco products" means:

3 (A) **Any product that contains, is made from or is derived from tobacco or natural or**  
4 **synthetic nicotine, such as** bidis, cigars, cheroots, stogies, periques, granulated, plug cut, crimp  
5 cut, ready rubbed and other smoking tobacco, snuff, snuff flour, cavendish, plug and twist tobacco,  
6 fine-cut and other chewing tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of to-  
7 bacco and other forms of tobacco, prepared in a manner that makes the tobacco suitable for chewing  
8 or smoking in a pipe or otherwise, or for both chewing and smoking;

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

10 (C) A device that:

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

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

15 (2) It is unlawful:

16 (a) To violate ORS 167.755.

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

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

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

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

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

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

32 **(h) To distribute, sell, attempt to sell or allow to be sold a flavored inhalant delivery**  
33 **system product or flavored tobacco product in this state.**

34 (3) The notice required by subsection (2)(b) of this section must be substantially as follows:

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37 NOTICE

38 The sale of tobacco in any form to persons under 21 years of age is prohibited by law. Any  
39 person who sells, or allows to be sold, tobacco to a person under 21 years of age is in violation of  
40 Oregon law.

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43 (4) Rules adopted under subsection (2)(d), (e) and (f) of this section must be consistent with any  
44 regulation adopted by the United States Food and Drug Administration related to labeling or pack-  
45 aging requirements for inhalant delivery systems.

1       **(5) Subsection (2)(h) of this section does not apply to a hookah lounge certified by the**  
2 **Oregon Health Authority under ORS 433.847 (2)(c).**

3       **(6) This section does not preempt a local government, as defined in ORS 174.116, from**  
4 **enacting an ordinance, rule or resolution, or from taking other legislative action, that im-**  
5 **poses requirements or prohibitions on flavored tobacco products or flavored inhalant delivery**  
6 **system products that are more stringent than the requirements or prohibitions set forth in**  
7 **subsection (2)(h) of this section.**

8       **SECTION 2. (1) The amendments to ORS 431A.175 by section 1 of this 2023 Act become**  
9 **operative on July 1, 2024.**

10       **(2) The Oregon Health Authority may take any action before the operative date specified**  
11 **in subsection (1) of this section that is necessary to enable the authority to exercise, on and**  
12 **after the operative date specified in subsection (1) of this section, all of the duties, functions**  
13 **and powers conferred on the authority by the amendments to ORS 431A.175 by section 1 of**  
14 **this 2023 Act.**