

Requested by Senator LINTHICUM

**PROPOSED AMENDMENTS TO
HOUSE BILL 3090**

1 On page 1 of the printed bill, line 2, after “431A.175” insert “and
2 431A.178”.

3 Delete lines 5 through 30 and delete pages 2 and 3 and insert:

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

5 “431A.175. (1) As used in this section and ORS 431A.183:

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

13 **“(B) ‘Characterizing flavor’ does not include the artificial or natural**
14 **taste, flavor, aroma or smell of cannabis.**

15 **“(b) ‘Flavored inhalant delivery system product’ means an inhalant**
16 **delivery system product that imparts a characterizing flavor.**

17 **“(c) ‘Flavored tobacco product’ means a tobacco product manufac-**
18 **tured to impart a characterizing flavor.**

19 **“[(A)] (d)(A) ‘Inhalant delivery system’ means:**

20 **“(i) A device that can be used to deliver nicotine or cannabinoids in the**
21 **form of a vapor or aerosol to a person inhaling from the device; or**

1 “(ii) A component of a device described in this subparagraph or a sub-
2 stance in any form sold for the purpose of being vaporized or aerosolized by
3 a device described in this subparagraph, whether the component or substance
4 is sold separately or is not sold separately.

5 “(B) ‘Inhalant delivery system’ does not include:

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

10 “(ii) Tobacco products.

11 “[~~(b)~~] (e) ‘Tobacco products’ means:

12 “(A) Bidis, cigars, cheroots, stogies, periques, granulated, plug cut, crimp
13 cut, ready rubbed and other smoking tobacco, snuff, snuff flour, cavendish,
14 plug and twist tobacco, fine-cut and other chewing tobaccos, shorts, refuse
15 scraps, clippings, cuttings and sweepings of tobacco and other forms of to-
16 bacco, prepared in a manner that makes the tobacco suitable for chewing or
17 smoking in a pipe or otherwise, or for both chewing and smoking;

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

19 “(C) A device that:

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

22 “(ii) Has not been approved by the United States Food and Drug Admin-
23 istration for sale as a tobacco cessation product or for any other therapeutic
24 purpose, if the product is marketed and sold solely for the approved purpose.

25 “(2) It is unlawful:

26 “(a) To violate ORS 167.755.

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

30 “(c) To fail as a retailer of inhalant delivery systems to post a notice in

1 a location that is clearly visible to the seller and the purchaser of the
2 inhalant delivery systems that it is unlawful to sell inhalant delivery systems
3 to persons under 21 years of age. The Oregon Health Authority shall adopt
4 by rule the content of the notice required under this paragraph.

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

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

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

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

16 **“(h) To fail as a retailer to verify that the purchaser is over 21 years
17 of age, by using a state-approved technology to scan the purchaser’s
18 government-issued photo identification, before selling a flavored
19 inhalant delivery system product or a flavored tobacco product.**

20 **“(i) To distribute, sell or allow to be sold a flavored inhalant deliv-
21 ery system product or flavored tobacco product without first signing
22 a government form attesting to have received and understood training
23 on Oregon’s laws related to age restrictions for purchasing flavored
24 inhalant delivery system products or flavored tobacco products and
25 related procedures for verifying, inspecting and validating
26 government-issued photo identifications. The Oregon Health Authority
27 shall by rule adopt the form required under this paragraph.**

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

30 “ _____

1 NOTICE

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

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

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

11 “431A.178. (1) The Oregon Health Authority may impose a civil penalty
12 against a person, **including an employee of a retailer if the employee**
13 **has signed the form described in ORS 431A.175 (2)(i)**, that engages in the
14 wholesale or retail sale of tobacco products or inhalant delivery systems, as
15 those terms are defined in ORS 431A.175, if the person violates:

16 “(a) ORS 431A.175 or a rule adopted under ORS 431A.175; or

17 “(b) A state law or rule or federal law or regulation that governs the
18 wholesale or retail sale of tobacco products or inhalant delivery systems for
19 purposes related to public health and safety.

20 “(2) A civil penalty imposed under this section may not be more than
21 \$5,000 per violation.

22 “(3) Amounts collected under this section shall be deposited in the Gen-
23 eral Fund.

24 “(4) If a civil penalty is imposed under this section, a civil penalty may
25 not be imposed for the commission of the same act under ORS 431A.216 or
26 431A.218.

27 **“SECTION 3. (1) The amendments to ORS 431A.175 and 431A.178 by**
28 **sections 1 and 2 of this 2023 Act become operative January 1, 2024.**

29 **“(2) The Oregon Health Authority may take any action before the**
30 **operative date specified in subsection (1) of this section that is neces-**

1 sary to enable the authority to exercise, on or after the operative date
2 specified in subsection (1) of this section, all of the duties, functions
3 and powers conferred on the authority by the amendments to ORS
4 431A.175 and 431A.178 by sections 1 and 2 of this 2023 Act.

5 **“SECTION 4. This 2023 Act being necessary for the immediate**
6 **preservation of the public peace, health and safety, an emergency is**
7 **declared to exist, and this 2023 Act takes effect on its passage.”.**

8
