

# Senate Bill 1577

Sponsored by Senator MONNES ANDERSON, Representative HELT (Pre-session filed.)

## 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 distributing, selling or allowing to be sold flavored inhalant delivery system products. Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to public health; creating new provisions; amending ORS 167.750 and 431A.183; and pre-  
3 scribing an effective date.

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

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

5  
6 (a) **“Characterizing flavor” means a distinguishable taste or aroma other than tobacco.**

7 (b)(A) **“Flavored inhalant delivery system product” means a component of an inhalant**  
8 **delivery system or a substance in any form sold for the purpose of being aerosolized or**  
9 **vaporized by an inhalant delivery system, regardless of whether the component or substance**  
10 **is sold separately, that has been manufactured to impart a characterizing flavor.**

11 (B) **“Flavored inhalant delivery system product” does not include a product that has been**  
12 **approved by the United States Food and Drug Administration for sale as a tobacco cessation**  
13 **product or for any other therapeutic purpose.**

14 (c) **“Inhalant delivery system” means a device that can be used to deliver nicotine in the**  
15 **form of an aerosol or vapor to a person inhaling from the device.**

16 (2) **A person may not distribute, sell or allow to be sold a flavored inhalant delivery sys-**  
17 **tem product in this state.**

18 (3) **The Oregon Health Authority may impose a civil penalty of up to \$5,000 for each vio-**  
19 **lation of this section. All moneys collected pursuant to this subsection shall be deposited in**  
20 **the Oregon Health Authority Fund established under ORS 413.101 and are continuously ap-**  
21 **propriated to the authority for the purpose of carrying out this section.**

22 (4) **The authority may adopt rules to carry out this section.**

### **SECTION 2.** ORS 431A.183 is amended to read:

23  
24 431A.183. (1)(a) The Oregon Health Authority may enter into an agreement with federal agencies  
25 to assist the authority in monitoring and enforcing federal laws and regulations related to tobacco  
26 products or inhalant delivery systems.

27 (b) The authority may commission employees of the authority as federal officers for the purpose  
28 of carrying out the duties prescribed under an agreement entered into under paragraph (a) of this  
29 subsection.

30 (c) The authority may adopt rules and take any action necessary to carry out the authority's  
31 duties as established under an agreement entered into under paragraph (a) of this subsection.

**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 (2) The authority may enter into an agreement with federal, state and local government agen-  
 2 cies, including federal, state and local law enforcement agencies, to assist the authority in carrying  
 3 out the authority's duties under ORS 431A.175 and to conduct random, unannounced inspections of  
 4 wholesalers and retailers of tobacco products or inhalant delivery systems to ensure compliance  
 5 with the laws of this state designed to discourage the use of tobacco products and inhalant delivery  
 6 systems by persons under 21 years of age, including ORS 167.750, 167.755, 167.760, 167.765, 167.775,  
 7 167.780 and 431A.175 **and section 1 of this 2020 Act.**

8 (3)(a) If the authority enters into an agreement with the Department of State Police under sub-  
 9 section (2) of this section, the department may employ retired state police officers who are active  
 10 reserve officers. Service by a retired state police officer under this paragraph is subject to ORS  
 11 238.082.

12 (b) The department may not use the services of a retired state police officer to displace an ac-  
 13 tive state police member.

14 (4)(a) The authority may apply for and accept moneys from the federal government or other  
 15 public or private sources and, in accordance with any federal restrictions or other funding source  
 16 restrictions, use those moneys to carry out the duties and functions related to preventing the use  
 17 of tobacco products or inhalant delivery systems by persons who are not of the minimum age to  
 18 purchase tobacco products or inhalant delivery systems.

19 (b) Moneys received by the authority under paragraph (a) of this subsection shall be deposited  
 20 in the Oregon Health Authority Fund established under ORS 413.101. Moneys subject to a federal  
 21 restriction or other funding source restriction must be accounted for separately from other fund  
 22 moneys.

23 (5)(a) The authority shall submit a written report each biennium to the Governor and to the  
 24 appropriate committee or interim committee of the Legislative Assembly to which matters of public  
 25 health are assigned.

26 (b) The report submitted under this subsection must contain information describing:

27 (A) The activities carried out to enforce the laws listed in subsection (2) of this section during  
 28 the previous biennium;

29 (B) The extent of success achieved in reducing the availability of tobacco products and inhalant  
 30 delivery systems to persons under 21 years of age; and

31 (C) The strategies to be utilized for enforcing the laws listed in subsection (2) of this section  
 32 during the biennium following the report.

33 (6) The authority shall adopt rules for conducting random inspections of establishments that  
 34 distribute or sell tobacco products or inhalant delivery systems **that are consistent with any**  
 35 **federal law or regulation relating to the inspection of establishments that distribute or sell**  
 36 **tobacco products or inhalant delivery systems.** The rules shall provide that inspections may take  
 37 place:

38 (a) Only in areas open to the public;

39 (b) Only during the hours that tobacco products or inhalant delivery systems are distributed or  
 40 sold; and

41 (c) No more frequently than once a month in any single establishment unless a compliance  
 42 problem exists or is suspected.

43 **SECTION 3.** ORS 167.750 is amended to read:

44 167.750. For purposes of ORS 167.755 and 431A.175 **and section 1 of this 2020 Act**, "allows to  
 45 be sold" includes the negligent omission of an act by a manager or other person who supervises the

1 retail sale of tobacco products or inhalant delivery systems, the commission of which would have  
2 prevented the distribution or sale of the tobacco products or inhalant delivery system.

3 **SECTION 4. (1) Section 1 of this 2020 Act and the amendments to ORS 167.750 and**  
4 **431A.183 by sections 2 and 3 of this 2020 Act become operative on January 1, 2021.**

5 **(2) The Oregon Health Authority may take any action before the operative date specified**  
6 **in subsection (1) of this section that is necessary to enable the authority to exercise, on and**  
7 **after the operative date specified in subsection (1) of this section, all of the duties, functions**  
8 **and powers conferred on the authority by section 1 of this 2020 Act and the amendments to**  
9 **ORS 167.750 and 431A.183 by sections 2 and 3 of this 2020 Act.**

10 **SECTION 5. This 2020 Act takes effect on the 91st day after the date on which the 2020**  
11 **regular session of the Eightieth Legislative Assembly adjourns sine die.**

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