

Senate Bill 416

Sponsored by Senator STEINER HAYWARD; Senators BATES, MONNES ANDERSON, Representatives HELM, TAYLOR (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**.

Requires payment of fee for smoke shop certification, renewal of smoke shop certification, transfer of smoke shop certification and relocation of smoke shop.

Requires smoke shops certified under current criteria to renew certification every five years.

Becomes operative January 1, 2016.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to the imposition of fees on entities subject to the Oregon Indoor Clean Air Act; creating
3 new provisions; amending ORS 433.847; and declaring an emergency.

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

5 **SECTION 1.** ORS 433.847 is amended to read:

6 433.847. (1) The Oregon Health Authority shall adopt rules establishing a certification system
7 for smoke shops.

8 (2) The authority shall issue a smoke shop certification to a business that:

9 (a)(A) Is primarily engaged in the sale, **for off-premises consumption or use**, of tobacco pro-
10 ducts and smoking instruments [*intended for off-premises consumption or use*] **used to smoke to-**
11 **bacco products**, with at least 75 percent of the gross revenues of the business resulting from such
12 sales;

13 (B) Prohibits persons under 18 years of age from entering the premises;

14 (C) Does not offer video lottery games as authorized under ORS 461.217, social gaming or betting
15 on the premises;

16 (D) Does not sell, offer or allow on-premises consumption of food or beverages, including alco-
17 holic beverages;

18 (E) Is a stand-alone business with no other businesses or residential property attached to the
19 premises;

20 (F) Has a maximum seating capacity of four persons; [*and*]

21 (G) Allows **the smoking of tobacco product samples** only for the purpose of [*sampling tobacco*
22 *products for*] making retail purchase decisions; **and**

23 **(H) Pays a fee adopted by the authority by rule;**

24 (b) On December 31, 2008:

25 (A) Met the requirements of paragraph (a)(A) to (D) of this subsection; and

26 (B)(i) Was a stand-alone business with no other businesses or residential property attached; or

27 (ii) Had a ventilation system that exhausted smoke from the business and was designed and
28 terminated in accordance with the state building code standards for the occupancy classification in
29 use; or

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 [(c)(A) Filed an application for certification as a smoke shop before June 30, 2011;]

2 [(B) Met the requirements of ORS 433.835 (5), as in effect immediately before June 30, 2011, at the
3 time of application;]

4 [(C)] (c)(A) Was certified as a smoke shop under ORS 433.835 (5), as in effect immediately before
5 June 30, 2011, by the authority on or before December 31, 2012; and

6 [(D)] (B) Allows **the** smoking of cigarettes only if at least 75 percent of the gross revenues of
7 the business results from the sale of cigarettes.

8 **(3) A smoke shop certified under subsection (2)(a) of this section must renew the smoke
9 shop certification every five years by paying a fee adopted by the authority by rule and
10 demonstrating to the satisfaction of the authority that the smoke shop meets the require-
11 ments of subsection (2)(a)(A) to (G) of this section.**

12 [(3)] (4) A smoke shop certified under subsection (2)(b) of this section must renew the smoke
13 shop certification every five years by **paying a fee adopted by the authority by rule and** demon-
14 strating to the satisfaction of the authority that the smoke shop:

15 (a)(A) Meets the requirements of subsection (2)(a)(A) to (D) of this section; and

16 (B)(i) Is a stand-alone business with no other businesses or residential property attached; or

17 (ii) Has a ventilation system that exhausts smoke from the business and is designed and termi-
18 nated in accordance with the state building code standards for the occupancy classification in use;
19 and

20 (b) Allows **the** smoking of cigarettes only if at least 75 percent of the gross revenues of the
21 business results from the sale of cigarettes.

22 [(4)] (5) A smoke shop certified under subsection (2)(c) of this section must renew the smoke
23 shop certification every five years by **paying a fee adopted by the authority by rule and** demon-
24 strating to the satisfaction of the authority that the smoke shop:

25 (a) Meets the requirements of ORS 433.835 (5), as in effect immediately before June 30, 2011; and

26 (b) Allows **the** smoking of cigarettes only if at least 75 percent of the gross revenues of the
27 business results from the sale of cigarettes.

28 [(5)] (6) The owner of a smoke shop certified under subsection (2)(b) or (c) of this section may
29 transfer the certification with ownership of the smoke shop:

30 (a) **Upon payment of a fee adopted by the authority by rule; and**

31 (b) **If the transfer is made** in accordance with rules adopted by the authority.

32 [(6)] (7) A smoke shop certified under subsection (2)(b) of this section may continue to be certi-
33 fied in a new location under subsection (2)(b) of this section if:

34 (a)(A) The new location occupies no more than 3,500 square feet; or

35 (B) If the old location occupied more than 3,500 square feet, the new location occupies no more
36 than 110 percent of the space occupied by the old location; [and]

37 (b) The smoke shop as operated in the new location:

38 (A) Meets the requirements of subsection (2)(a)(A) to (D) of this section;

39 (B)(i) Is a stand-alone business with no other businesses or residential property attached; or

40 (ii) Has a ventilation system that exhausts smoke from the business and is designed and termi-
41 nated in accordance with the state building code standards for the occupancy classification in use;
42 and

43 (C) Allows **the** smoking of cigarettes only if at least 75 percent of the gross revenues of the
44 business results from the sale of cigarettes[.]; **and**

45 (c) **The owner of the smoke shop pays a fee adopted by the authority by rule.**

1 [(7)] (8) A smoke shop certified under subsection (2)(c) of this section may continue to be certi-
 2 fied in a new location under subsection (2)(c) of this section if:

3 (a)(A) The new location occupies no more than 3,500 square feet; or

4 (B) If the old location occupied more than 3,500 square feet, the new location occupies no more
 5 than 110 percent of the space occupied by the old location; [and]

6 (b) The smoke shop as operated in the new location:

7 (A) Meets the requirements of ORS 433.835 (5), as in effect immediately before June 30, 2011;
 8 and

9 (B) Allows **the** smoking of cigarettes only if at least 75 percent of the gross revenues of the
 10 business results from the sale of cigarettes[.]; **and**

11 **(c) The owner of the smoke shop pays a fee adopted by the authority by rule.**

12 [(8)] (9)(a) [The] Rules adopted under [subsection (1) of] this section must provide that, in order
 13 to obtain a smoke shop certification, a business must agree to allow the authority to make unan-
 14 nounced inspections of the business to determine compliance with ORS 433.835 to 433.875.

15 **(b) Fees adopted under this section must be reasonably calculated to pay the cost of ad-
 16 ministering this section, rules adopted under this section and ORS 433.855 with respect to
 17 ensuring that smoke shops are in compliance with this section and rules adopted under this
 18 section.**

19 **SECTION 2.** The amendments to ORS 433.847 by section 1 of this 2015 Act requiring the
 20 payment of fees apply to businesses that apply for smoke shop certification, renewal of
 21 smoke shop certification or transfer of smoke shop certification, or that apply for relocation
 22 of a smoke shop, on and after the operative date specified in section 3 of this 2015 Act.

23 **SECTION 3.** (1) The amendments to ORS 433.847 by section 1 of this 2015 Act become
 24 operative on January 1, 2016.

25 (2) The Oregon Health Authority may take any action before the operative date specified
 26 in subsection (1) of this section that is necessary to enable the authority to exercise, on and
 27 after the operative date specified in subsection (1) of this section, all the duties, functions
 28 and powers conferred on the authority by the amendments to ORS 433.847 by section 1 of this
 29 2015 Act.

30 **SECTION 4.** This 2015 Act being necessary for the immediate preservation of the public
 31 peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect
 32 on its passage.

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