Enrolled
House Bill 2270

Introduced and printed pursuant to House Rule 12.00. Presession filed (at the request of Governor Kate Brown for Oregon Health Authority)

CHAPTER 000525

AN ACT

Relating to taxes on nonfood consumer products; creating new provisions; amending ORS 323.010, 323.031, 323.455, 323.457, 323.500, 323.505, 323.625 and 431A.175; providing for revenue raising that requires approval by a three-fifths majority; and providing that this Act shall be referred to the people for their approval or rejection.

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

SECTION 1. ORS 323.031 is amended to read:

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

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

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

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

SECTION 3. All moneys received by the Department of Revenue from the tax imposed by ORS 323.031 (2) shall be paid over to the State Treasurer to be held in a suspense account established under ORS 293.445. The department shall pay expenses for administration and enforcement of ORS 323.005 to 323.482 out of moneys received from the tax imposed under ORS 323.031 (2). Moneys used for payment of expenses under this section shall equal 60.61 percent of all expenses for administration and enforcement of ORS 323.005 to 323.482. Amounts necessary to pay administrative and enforcement expenses are continuously appropriated to the department from the suspense account. After the payment of administrative and enforcement expenses and refunds, the remaining balance shall be credited to the Oregon Health Authority Fund established by ORS 413.101 to be used as follows:

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

(2) 10 percent of the moneys are continuously appropriated to the Oregon Health Authority for distribution to tribal health providers, Urban Indian Health programs, regional health equity coalitions, culturally specific and community-specific health programs and

state and local public health programs that address prevention and cessation of tobacco and nicotine use by youth and adults, tobacco-related health disparities and the prevention and management of chronic disease related to tobacco and nicotine.

SECTION 4. ORS 323.455 is amended to read:

323.455. (1) All moneys received by the Department of Revenue from the tax imposed by ORS 323.030 (1) shall be paid over to the State Treasurer to be held in a suspense account established under ORS 293.445. The department may pay expenses for administration and enforcement of ORS 323.005 to 323.482 out of moneys received from the tax imposed under ORS 323.030 (1), **after all amounts available under section 3 of this 2019 Act for expenses for administration and enforcement of ORS 323.005 to 323.482 have been used.** Amounts necessary to pay administrative and enforcement expenses are continuously appropriated to the department from the suspense account. After the payment of administrative and enforcement expenses and refunds, 89.65 percent shall be credited to the General Fund, 3.45 percent is appropriated to the cities of this state, 3.45 percent is appropriated to the counties of this state and 3.45 percent is continuously appropriated to the Department of Transportation for the purpose of financing and improving transportation services for elderly individuals and individuals with disabilities as provided in ORS 391.800 to 391.830.

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

(3) The moneys appropriated to the Department of Transportation under subsection (1) of this section shall be distributed and transferred to the Elderly and Disabled Special Transportation Fund established by ORS 391.800 at the same time as the cigarette tax moneys are distributed to cities and counties under this section.

(4) Of the moneys credited to the General Fund under subsection (1) of this section, 51.92 percent shall be dedicated to funding the maintenance and expansion of the number of persons eligible for the medical assistance program under ORS chapter 414, or to funding the maintenance of the benefits available under the program, or both, and 5.77 percent shall be credited to the Tobacco Use Reduction Account established under ORS 431A.153.

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

SECTION 5. ORS 323.457 is amended to read:

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

(a) 29.37/30 of the moneys shall be credited to the [*Oregon Health Plan Fund established under ORS 414.109*] **Oregon Health Authority Fund established under ORS 413.101**;

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

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

(d) 0.14/30 of the moneys are continuously appropriated to the Department of Transportation to be distributed and transferred to the Elderly and Disabled Special Transportation Fund established under ORS 391.800; and

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

(2)(a) Moneys distributed to cities and counties under this section shall be distributed to each city or county using the proportions used for distributions made under ORS 323.455.

(b) Moneys shall be distributed to cities, counties and the Elderly and Disabled Special Transportation Fund at the same time moneys are distributed to cities, counties and the Elderly and Disabled Special Transportation Fund under ORS 323.455.

SECTION 6. ORS 323.010 is amended to read:

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

(1) "Cigarette" means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use and consists of or contains:

(a) Any roll of tobacco wrapped in paper or in any substance not containing tobacco;

(b) Tobacco, in any form, that is functional in the product and that, because of its appearance, the type of tobacco used in the filler or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; [*or*]

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

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

(2) "Cigarette activity in this state":

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

(b) Does not include importing, storing, manufacturing or exporting of cigarettes that are to be consumed by the person doing the importing, storing, manufacturing or exporting.

(3) "Contraband cigarettes" means cigarettes or packages of cigarettes:

(a) That do not comply with the requirements of ORS 323.005 to 323.482 or 323.856 or the cigarette tax laws of another state or the federal government;

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

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

(4) "Department" means the Department of Revenue.

(5) "Dealer" includes every person, other than a manufacturer or a person holding a distributor's license, who engages in this state in the sale of cigarettes.

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

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

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

(9) "Manufacturer" means any person who makes, manufactures or fabricates cigarettes for sale.

(10) "Package" means the individual package, box or other container in which retail sales or gifts of cigarettes are normally made or intended to be made.

(11) "Person" includes any individual, firm, copartnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, receiver, trustee, syndicate, this state, any county, municipality, district or other political subdivision of the state, or any other group or combination acting as a unit.

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

(13) "Taxpayer" means a distributor or other person required to pay a tax under ORS 323.005 to 323.482, and includes a distributor required to prepay a tax under ORS 323.068.

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

(15) "Untaxed cigarette" means any cigarette that has not yet been distributed in such manner as to result in a tax liability under ORS 323.005 to 323.482.

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

(17) "Wholesaler" means any dealer who engages in the sale of cigarettes to any other dealer for purposes other than use or consumption.

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

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

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

(4) As used in this section, "dealer" has the meaning given that term in ORS 323.010.

SECTION 8. Notwithstanding ORS 323.030 (3) or 323.031 (3), for the privilege of distributing cigarettes as a distributor, as defined in ORS 323.015, and for holding or storing cigarettes for sale, use or consumption, a floor tax and cigarette adjustment indicia tax is imposed upon every distributor in the amount of $2.50 for each Oregon cigarette tax stamp bearing the designation "25," and in the amount of $2 for each Oregon cigarette tax stamp bearing the designation "20," that is affixed to any package of cigarettes in the possession of or under the control of the distributor, or that is unaffixed, at 12:01 a.m. on January 1, 2021.

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

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

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

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

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

SECTION 10. All moneys received by the Department of Revenue from the taxes imposed by sections 7 and 8 of this 2019 Act shall be paid over to the State Treasurer to be held in a suspense account established under ORS 293.445. After payment of refunds, the remaining balance shall be credited to the Oregon Health Authority Fund established by ORS 413.101.

SECTION 11. ORS 323.500 is amended to read:

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

(1) "Business" means any trade, occupation, activity or enterprise engaged in for the purpose of selling or distributing tobacco products in this state.

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

(3) "Consumer" means any person who purchases tobacco products in this state for the person's use or consumption or for any purpose other than for reselling the tobacco products to another person.

(4) "Contraband tobacco products" means tobacco products or packages containing tobacco products:

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

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

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

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

(5) "Department" means the Department of Revenue.

(6) "Distribute" means:

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

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

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

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

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

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

(7) "Distributor" means:

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

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

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

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

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

(8)(a) "Inhalant delivery system" means:

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

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

(b) "Inhalant delivery system" does not include:

(A) 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;

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

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

[*(8)*] **(9)** "Manufacturer" means a person who manufactures tobacco products for sale.

[*(9)*] **(10)** "Moist snuff" means:

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

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

[*(10)*] **(11)** "Place of business" means any place where tobacco products are sold or where tobacco products are manufactured, stored or kept for the purpose of sale or consumption, including any vessel, vehicle, airplane, train or vending machine.

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

[*(12)*] **(13)** "Sale" means any transfer, exchange or barter, in any manner or by any means, for a consideration, and includes and means all sales made by any person. It includes a gift by a person engaged in the business of selling tobacco products, for advertising, as a means of evading the provisions of ORS 323.500 to 323.645, or for any other purpose.

[*(13)*] **(14)** "Taxpayer" includes a distributor or other person required to pay a tax imposed under ORS 323.500 to 323.645.

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

[*(15)*] **(16)** "Untaxed tobacco products" means tobacco products for which the tax required under ORS 323.500 to 323.645 has not been paid.

[*(16)*] **(17)** "Wholesale sales price" means the price paid for untaxed tobacco products to or on behalf of a seller by a purchaser of the untaxed tobacco products.

SECTION 12. ORS 323.505 is amended to read:

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

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

[*(a) Sixty-five percent of the wholesale sales price of cigars, but not to exceed 50 cents per cigar;*]

(a) Sixty-five percent of the wholesale sales price of cigars, but not to exceed one dollar per cigar;

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

(c) Sixty-five percent of the wholesale sales price of all tobacco products that are not cigars or moist snuff.

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

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

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

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

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

[*(5)*] **(6)** No tobacco product shall be subject to the tax if the base product or other intermediate form thereof has previously been taxed under this section.

SECTION 13. ORS 323.625 is amended to read:

323.625. All moneys received by the Department of Revenue under ORS 323.500 to 323.645 shall be deposited in the State Treasury and credited to a suspense account established under ORS 293.445. The department may pay expenses for administration and enforcement of ORS 323.500 to 323.645 out of moneys received from the taxes imposed under ORS 323.505 and 323.565. Amounts necessary to pay administrative and enforcement expenses are continuously appropriated to the department from the suspense account. After the payment of administrative and enforcement expenses and refunds or credits arising from erroneous overpayments, **and except as provided in section 14 of this 2019 Act,** the balance of the money shall be credited to the General Fund. Of the amount credited to the General Fund under this section 41.54 percent shall be dedicated to funding the maintenance and expansion of the number of persons eligible for the medical assistance program under ORS chapter 414, or to funding the maintenance of the benefits available under the program, or both, and 4.62 percent shall be credited to the Tobacco Use Reduction Account established under ORS 431A.153.

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

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

(2) 10 percent of the moneys are continuously appropriated to the Oregon Health Authority for distribution to tribal health providers, Urban Indian Health programs, regional health equity coalitions, culturally specific and community-specific health programs and state and local public health programs that address prevention and cessation of tobacco and

nicotine use by youth and adults, tobacco-related health disparities and the prevention and management of chronic disease related to tobacco and nicotine.

NOTE: Section 15 was deleted by amendment. Subsequent sections were not renumbered.

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

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

(a)(A) "Inhalant delivery system" means:

(i) A device that can be used to deliver nicotine or cannabinoids 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 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

(ii) Tobacco products.

(b) "Tobacco products" means:

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

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

(C) A device that:

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

(ii) Has not 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.

(2) It is unlawful:

(a) To violate ORS 167.750.

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

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

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

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

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

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

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

NOTICE

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

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

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

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

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

SECTION 19. (1) Notwithstanding the confidentiality provisions of ORS 323.403, the Department of Revenue may disclose information received under ORS 323.005 to 323.482 to the Oregon Health Authority to carry out the provisions of ORS 167.750 to 167.785, 431A.175 or 431A.183.

(2) The authority may disclose information obtained pursuant to ORS 431A.175 or 431A.183 to the department for the purpose of carrying out the provisions of ORS 323.005 to 323.482, provided that the authority does not disclose personally identifiable information.

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

SECTION 21. (1) Notwithstanding the confidentiality provisions of ORS 323.595, the Department of Revenue may disclose information received under ORS 323.500 to 323.645 to the Oregon Health Authority to carry out the provisions of ORS 167.750 to 167.785, 431A.175 or 431A.183.

(2) The authority may disclose information obtained pursuant to ORS 431A.175 or 431A.183 to the department for the purpose of carrying out the provisions of ORS 323.500 to 323.645, provided that the authority does not disclose personally identifiable information.

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

Passed by House June 20, 2019

Timothy G. Sekerak, Chief Clerk of House

Tina Kotek, Speaker of House

Passed by Senate June 30, 2019

Peter Courtney, President of Senate

Referred to People

Filed in Office of Secretary of State:

12:10 P.M., July 9, 2019

Bev Clarno, Secretary of State