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SUMMARY

Establishes \$1,000 fee for smoke shop certification, renewal of smoke shop certification and relocation of smoke shop.

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

A BILL FOR AN ACT

1
2 Relating to imposition of fees on smoke shops; creating new provisions; and
3 amending ORS 433.847.

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
7 a certification system for smoke shops. In adopting such rules, the authority
8 shall prohibit the smoking, aerosolizing or vaporizing of inhalants that are
9 not tobacco products in smoke shops.

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

11 (a)(A) Is primarily engaged in the sale, for off-premises consumption or
12 use, of tobacco products and smoking instruments used to smoke tobacco
13 products, with at least 75 percent of the gross revenues of the business re-
14 sulting from such sales;

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

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

18 (D) Does not sell or offer food or beverages and does not sell, offer or
19 allow on-premises consumption of alcoholic beverages;

20 (E) Is a stand-alone business with no other businesses or residential

1 property attached to the premises;

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

3 (G) Allows the smoking of tobacco product samples only for the purpose
4 of making retail purchase decisions; **and**

5 **(H) Pays the fee established under subsection (10)(a) of this section;**

6 (b) On December 31, 2008:

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

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

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

14 (c)(A) Was certified as a smoke shop under ORS 433.835, as in effect im-
15 mediately before June 30, 2011, by the authority on or before December 31,
16 2012; and

17 (B) Allows the smoking of cigarettes only if at least 75 percent of the
18 gross revenues of the business results from the sale of cigarettes.

19 **(3) A smoke shop certified under subsection (2)(a) of this section**
20 **must renew the smoke shop certification every five years by paying**
21 **the fee established under subsection (10)(b) of this section and dem-**
22 **onstrating to the satisfaction of the authority that the smoke shop**
23 **meets the requirements of subsection (2)(a)(A) to (G) of this section.**

24 ~~[(3)]~~ (4) A smoke shop certified under subsection (2)(b) of this section
25 must renew the smoke shop certification every five years by **paying the fee**
26 **established under subsection (10)(b) of this section and** demonstrating
27 to the satisfaction of the authority that the smoke shop:

28 (a)(A) Meets the requirements of subsection (2)(a)(A) to (D) of this sec-
29 tion; and

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

1 (ii) Has a ventilation system that exhausts smoke from the business and
2 is designed and terminated in accordance with the state building code stan-
3 dards for the occupancy classification in use; and

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

6 [(4)] (5) A smoke shop certified under subsection (2)(c) of this section
7 must renew the smoke shop certification every five years by **paying the fee**
8 **established under subsection (10)(b) of this section and** demonstrating
9 to the satisfaction of the authority that the smoke shop:

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

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

14 [(5)] (6) The owner of a smoke shop certified under subsection (2)(b) or
15 (c) of this section may transfer the certification with ownership of the smoke
16 shop if the transfer is made in accordance with rules adopted by the au-
17 thority.

18 [(6)] (7) A smoke shop certified under subsection (2)(b) of this section may
19 continue to be certified in a new location under subsection (2)(b) of this
20 section if **the smoke shop pays the fee established under subsection**
21 **(10)(c) of this section and:**

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

23 (B) If the old location occupied more than 3,500 square feet, the new lo-
24 cation occupies no more than 110 percent of the space occupied by the old
25 location; and

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

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

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

30 (ii) Has a ventilation system that exhausts smoke from the business and
31 is designed and terminated in accordance with the state building code stan-

1 dards for the occupancy classification in use; and

2 (C) Allows the smoking of cigarettes only if at least 75 percent of the
3 gross revenues of the business results from the sale of cigarettes.

4 [(7)] **(8)** A smoke shop certified under subsection (2)(c) of this section may
5 continue to be certified in a new location under subsection (2)(c) of this
6 section if **the smoke shop pays the fee established under subsection**
7 **(10)(c) of this section and:**

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

9 (B) If the old location occupied more than 3,500 square feet, the new lo-
10 cation occupies no more than 110 percent of the space occupied by the old
11 location; and

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

13 (A) Meets the requirements of ORS 433.835, as in effect immediately be-
14 fore June 30, 2011; and

15 (B) Allows the smoking of cigarettes only if at least 75 percent of the
16 gross revenues of the business results from the sale of cigarettes.

17 [(8)] **(9)** Rules adopted under this section must provide that, in order to
18 obtain a smoke shop certification, a business must agree to allow the au-
19 thority to make unannounced inspections of the business to determine com-
20 pliance with ORS 433.835 to 433.875.

21 **(10) The authority shall charge a fee of \$1,000 for:**

22 **(a) A smoke shop certification under subsection (2)(a) of this sec-**
23 **tion.**

24 **(b) A smoke shop certification renewal under subsection (3), (4) or**
25 **(5) of this section.**

26 **(c) The relocation of a smoke shop under subsection (7) or (8) of this**
27 **section.**

28 **SECTION 2. The amendments to ORS 433.847 by section 1 of this**
29 **2016 Act apply to businesses that apply for smoke shop certification**
30 **or renewal of smoke shop certification, or that apply for relocation of**
31 **a smoke shop, on and after the effective date of this 2016 Act.**

