

# DRAFT

## 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

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

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

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

433.847. (1) The Oregon Health Authority shall adopt rules establishing a certification system for smoke shops. In adopting such rules, the authority shall prohibit the smoking, aerosolizing or vaporizing of inhalants that are not tobacco products in smoke shops.

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

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

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

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

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

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

property attached to the premises;

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

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

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

(b) On December 31, 2008:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

dards for the occupancy classification in use; and

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

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

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

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

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

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

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

~~[(8)]~~ **(9)** Rules adopted under this section must provide that, in order to obtain a smoke shop certification, a business must agree to allow the authority to make unannounced inspections of the business to determine compliance with ORS 433.835 to 433.875.

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

**(a) A smoke shop certification under subsection (2)(a) of this section.**

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

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

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

