

Senate Bill 754

Sponsored by Senator STEINER HAYWARD, Representatives KENY-GUYER, VIAL; Senator MONNES ANDERSON, Representatives BUEHLER, GREENLICK, JOHNSON, NOBLE, POST, SMITH D, SMITH G

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**.

Creates offense of selling tobacco products or inhalant delivery systems to person under 21 years of age. Punishes violation by fine.

Specifies that manager or other person who supervises retail sale of tobacco products or inhalant delivery systems commits offense if person is acting within course and scope of person's employment and person has supervisory authority over person who makes sale. Specifies that owner of business that sells tobacco products or inhalant delivery systems at retail commits violation if sale occurs at business.

Raises minimum age at which person may purchase or possess tobacco products and inhalant delivery systems to 21 years of age. Adjusts other requirements related to tobacco products and inhalant delivery systems to reflect raised minimum age.

Applies to conduct occurring on or after January 1, 2018.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to products that have a minimum age requirement for purchase; creating new provisions; amending ORS 163.575, 163.580, 165.800, 165.813, 167.402, 167.404, 167.407, 181A.335, 323.709, 323.718, 339.257, 339.883, 431A.175, 431A.183, 433.847, 743B.013, 807.066, 807.500, 809.380, 809.423 and 811.193; repealing ORS 167.400 and 167.401; and declaring an emergency.

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

VIOLATIONS

SECTION 1. As used in ORS 167.402, 167.404 and 167.407 and sections 2, 3, 4 and 5 of this 2017 Act:

(1) "Inhalant delivery system" has the meaning given that term in ORS 431A.175.

(2) "Tobacco products" has the meaning given that term in ORS 431A.175.

SECTION 2. (1) A person commits the offense of selling tobacco products or inhalant delivery systems to a person under 21 years of age upon the occurrence of one of the following:

(a) The person knowingly distributes or sells, or allows to be sold, to a person under 21 years of age, tobacco products;

(b) The person knowingly distributes or sells, or allows to be sold, to a person under 21 years of age, an inhalant delivery system;

(c) If the person is a manager or other person who supervises the retail sale of tobacco products or inhalant delivery systems, the person is acting within the course and scope of the person's employment and the person has supervisory authority over a person who violates paragraph (a) or (b) of this subsection; or

(d) If the person is an owner of a business that sells tobacco products or inhalant deliv-

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 ery systems at retail, a violation of paragraph (a) or (b) of this subsection occurs at the
2 business.

3 (2)(a) Violation of subsection (1)(a) or (b) of this section is a specific fine violation
4 punishable by a fine not to exceed \$50.

5 (b) Violation of subsection (1)(c) of this section is a specific fine violation punishable by
6 a fine not to exceed:

7 (A) \$500 for the first or second violation occurring during a two-year period; or

8 (B) \$1,000 for the third or subsequent violation occurring during a two-year period.

9 (c) Violation of subsection (1)(d) of this section is a specific fine violation punishable by
10 a fine not to exceed:

11 (A) \$1,000 for the first or second violation occurring during a two-year period; or

12 (B) \$5,000 for the third or subsequent violation occurring during a two year period.

13 **SECTION 3.** (1) A person who sells tobacco products or inhalant delivery systems shall
14 display a sign clearly stating that the sale of the tobacco products or inhalant delivery sys-
15 tems to persons under 21 years of age is prohibited by law.

16 (2) Failure to display a sign required by this section is a Class A violation.

17 **SECTION 4.** (1) Except as provided in subsection (2) of this section, a person under 21
18 years of age may not purchase, attempt to purchase or possess tobacco products or an
19 inhalant delivery system. If a law enforcement officer, or a teacher, employer or other indi-
20 vidual with supervisory authority over the person, has probable cause to believe that the
21 person is in violation of this section, the law enforcement officer, or the teacher, employer
22 or other individual with supervisory authority over the person, shall confiscate the tobacco
23 products or inhalant delivery system.

24 (2) A person under 21 years of age who is acting under the supervision of a person 21
25 years of age or older may purchase or attempt to purchase tobacco products or an inhalant
26 delivery system for the purpose of testing compliance with a federal law, state law, local law
27 or retailer policy limiting or regulating the distribution or sale of tobacco products or
28 inhalant delivery systems to persons who are under the legal minimum purchase age.

29 **SECTION 5.** For purposes of ORS 431A.175 and section 2 of this 2017 Act, “allows to be
30 sold” includes the negligent omission of an act by a manager or other person who supervises
31 the retail sale of tobacco products or inhalant delivery systems, the commission of which
32 would have prevented the distribution or sale of the tobacco products or inhalant delivery
33 system.

34 **SECTION 6.** ORS 167.402 is amended to read:

35 167.402. (1) As used in this section **and ORS 167.404**, “vending machine” means a [*mechanical,*
36 *electronic or similar*] device that, upon the insertion of tokens, money or another form of payment,
37 dispenses tobacco products or inhalant delivery systems.

38 (2) A person may not sell or dispense tobacco products or inhalant delivery systems from a
39 vending machine, except in an establishment where the premises are permanently and entirely off-
40 limits to [*minors under*] **persons under 21 years of age as required by** rules adopted by the
41 Oregon Liquor Control Commission.

42 (3) A person who violates this section commits a Class B violation. Each day that the person
43 commits the violation constitutes a separate offense.

44 **SECTION 7.** ORS 167.404 is amended to read:

45 167.404. Cities and counties by ordinance or resolution may not regulate vending machines that

1 dispense tobacco products or inhalant delivery systems and that are in any manner accessible to
 2 *[minors]* **persons under 21 years of age.**

3 **SECTION 8.** ORS 167.407 is amended to read:

4 167.407. (1) A person having authority over the location of tobacco products or inhalant delivery
 5 systems in a retail store may not locate the tobacco products or inhalant delivery systems in a lo-
 6 cation in the store where the tobacco products or inhalant delivery systems are accessible by store
 7 customers without assistance by a store employee.

8 (2) Violation of this section is a Class B violation. Each day that the person commits the vio-
 9 lation constitutes a separate offense.

10 (3) This section does not apply to a person if the location at which the tobacco products or
 11 inhalant delivery systems are sold is a store or other establishment *[at which persons under 18 years*
 12 *of age are prohibited]* **that prohibits persons under 21 years of age from entering the store or**
 13 **establishment.**

14 **SECTION 9.** ORS 811.193 is amended to read:

15 811.193. *[(1)(a)]* (1) A person commits the offense of smoking, aerosolizing or vaporizing in a
 16 motor vehicle if the person smokes or uses an inhalant delivery system in a motor vehicle while a
 17 person under *[18]* **21** years of age is in the motor vehicle.

18 *[(b)]* (2) As used in this *[subsection]* **section:**

19 *[(A)]* (a) “Smokes” means to inhale, exhale, burn or carry a lighted cigarette, cigar, pipe, weed,
 20 plant, regulated narcotic or other combustible substance; and

21 *[(B)]* (b) “Uses an inhalant delivery system” means to use an inhalant delivery system, as de-
 22 fined in ORS 431A.175, in a manner that creates an aerosol or vapor.

23 *[(2) Notwithstanding ORS 810.410, a police officer may enforce this section only if the police officer*
 24 *has already stopped and detained the driver operating the motor vehicle for a separate traffic violation*
 25 *or other offense.]*

26 (3) Smoking, aerosolizing or vaporizing in a motor vehicle is a:

27 (a) Class D traffic violation for a first offense.

28 (b) Class C traffic violation for a second or subsequent offense.

29
 30 **OTHER REQUIREMENTS**

31
 32 **SECTION 10.** ORS 431A.175 is amended to read:

33 431A.175. (1) As used in this section and ORS 431A.183:

34 (a)(A) “Inhalant delivery system” means:

35 (i) A device that can be used to deliver nicotine or cannabinoids in the form of a vapor or aer-
 36 osol to a person inhaling from the device; or

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

40 (B) “Inhalant delivery system” does not include:

41 (i) Any product that has been approved by the United States Food and Drug Administration for
 42 sale as a tobacco cessation product or for any other therapeutic purpose, if the product is marketed
 43 and sold solely for the approved purpose; and

44 (ii) Tobacco products.

45 (b) “Tobacco products” means:

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

6 (B) Cigarettes as defined in ORS 323.010 (1)[.]; **or**

7 **(C) A device that:**

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

9 **(ii) Has not been approved by the United States Food and Drug Administration for sale**
 10 **as a tobacco cessation product or for any other therapeutic purpose, if the product is mar-**
 11 **keted and sold solely for the approved purpose.**

12 (2) It is unlawful:

13 *[(a) To distribute, sell or allow to be sold tobacco products or an inhalant delivery system to a*
 14 *person under 18 years of age.]*

15 **(a) To violate section 2 of this 2017 Act.**

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

19 (c) To fail as a retailer of inhalant delivery systems to post a notice in a location that is clearly
 20 visible to the seller and the purchaser of the inhalant delivery systems that it is unlawful to sell
 21 inhalant delivery systems to persons under *[18]* **21** years of age. The Oregon Health Authority shall
 22 adopt by rule the content of the notice required under this paragraph.

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

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

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

29 (g) To distribute, sell or allow to be sold cigarettes in any form other than a sealed package.

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

31
32
33 **NOTICE**

34 The sale of tobacco in any form to persons under *[18]* **21** years of age is prohibited by law. Any
 35 person who sells, or allows to be sold, tobacco to a person under *[18]* **21** years of age is in violation
 36 of Oregon law.

37
38
39 (4) Rules adopted under subsection (2)(d), (e) and (f) of this section must be consistent with any
 40 regulation adopted by the United States Food and Drug Administration related to labeling or pack-
 41 aging requirements for inhalant delivery systems.

42 **SECTION 11.** ORS 431A.183 is amended to read:

43 431A.183. (1) The Oregon Health Authority shall:

44 (a) Coordinate with law enforcement agencies to conduct random, unannounced inspections of
 45 wholesalers and retailers of tobacco products or inhalant delivery systems to ensure compliance

1 with the laws of this state designed to discourage the use of tobacco products and inhalant delivery
 2 systems by [*minors,*] **persons under 21 years of age**, including ORS [*163.575, 163.580, 167.400,*]
 3 **167.402, 167.404, 167.407** and 431A.175 **and sections 2, 3 and 4 of this 2017 Act**; and

4 (b) Submit a report describing:

5 (A) The activities carried out to enforce the laws listed in paragraph (a) of this subsection
 6 during the previous fiscal year;

7 (B) The extent of success achieved in reducing the availability of tobacco products and inhalant
 8 delivery systems to [*minors*] **persons under 21 years of age**; and

9 (C) The strategies to be utilized for enforcing the laws listed in paragraph (a) of this subsection
 10 during the year following the report.

11 (2) The authority shall adopt rules [*concerning*] **for conducting** random inspections of [*places*]
 12 **establishments** that distribute or sell tobacco products or inhalant delivery systems [*that are con-*
 13 *sistent with any federal law or regulation relating to the inspection of such places*]. The rules shall
 14 provide that inspections may take place:

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

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

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

20 (3) The Oregon Liquor Control Commission, pursuant to an agreement or otherwise, may assist
 21 the authority with the authority's duties under subsection (1)(a) of this section and the enforcement
 22 of ORS 431A.175.

23 **SECTION 12.** ORS 433.847 is amended to read:

24 433.847. (1) The Oregon Health Authority shall adopt rules establishing a certification system
 25 for smoke shops. In adopting such rules, the authority shall prohibit the smoking, aerosolizing or
 26 vaporizing of inhalants that are not tobacco products in smoke shops.

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

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

31 (B) Prohibits persons under [*18*] **21** years of age from entering the premises;

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

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

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

38 (F) Has a maximum seating capacity of four persons; and

39 (G) Allows the smoking of tobacco product samples only for the purpose of making retail pur-
 40 chase decisions;

41 (b) On December 31, 2008:

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

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

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

- 1 use; or
- 2 (c)(A) Was certified as a smoke shop under ORS 433.835, as in effect immediately before June
3 30, 2011, by the authority on or before December 31, 2012; and
- 4 (B) Allows the smoking of cigarettes only if at least 75 percent of the gross revenues of the
5 business results from the sale of cigarettes.
- 6 (3) A smoke shop certified under subsection (2)(b) of this section must renew the smoke shop
7 certification every five years by demonstrating to the satisfaction of the authority that the smoke
8 shop:
- 9 (a)(A) Meets the requirements of subsection (2)(a)(A) to (D) of this section; and
- 10 (B)(i) Is a stand-alone business with no other businesses or residential property attached; or
- 11 (ii) Has a ventilation system that exhausts smoke from the business and is designed and termi-
12 nated in accordance with the state building code standards for the occupancy classification in use;
- 13 and
- 14 (b) Allows the smoking of cigarettes only if at least 75 percent of the gross revenues of the
15 business results from the sale of cigarettes.
- 16 (4) A smoke shop certified under subsection (2)(c) of this section must renew the smoke shop
17 certification every five years by demonstrating to the satisfaction of the authority that the smoke
18 shop:
- 19 (a) Meets the requirements of ORS 433.835, as in effect immediately before June 30, 2011; 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 (5) The owner of a smoke shop certified under subsection (2)(b) or (c) of this section may
23 transfer the certification with ownership of the smoke shop if the transfer is made in accordance
24 with rules adopted by the authority.
- 25 (6) A smoke shop certified under subsection (2)(b) of this section may continue to be certified
26 in a new location under subsection (2)(b) of this section if:
- 27 (a)(A) The new location occupies no more than 3,500 square feet; or
- 28 (B) If the old location occupied more than 3,500 square feet, the new location occupies no more
29 than 110 percent of the space occupied by the old location; and
- 30 (b) The smoke shop as operated in the new location:
- 31 (A) Meets the requirements of subsection (2)(a)(A) to (D) of this section;
- 32 (B)(i) Is a stand-alone business with no other businesses or residential property attached; or
- 33 (ii) Has a ventilation system that exhausts smoke from the business and is designed and termi-
34 nated in accordance with the state building code standards for the occupancy classification in use;
- 35 and
- 36 (C) Allows the smoking of cigarettes only if at least 75 percent of the gross revenues of the
37 business results from the sale of cigarettes.
- 38 (7) A smoke shop certified under subsection (2)(c) of this section may continue to be certified
39 in a new location under subsection (2)(c) of this section if:
- 40 (a)(A) The new location occupies no more than 3,500 square feet; or
- 41 (B) If the old location occupied more than 3,500 square feet, the new location occupies no more
42 than 110 percent of the space occupied by the old location; and
- 43 (b) The smoke shop as operated in the new location:
- 44 (A) Meets the requirements of ORS 433.835, as in effect immediately before June 30, 2011; and
- 45 (B) Allows the smoking of cigarettes only if at least 75 percent of the gross revenues of the

1 business results from the sale of cigarettes.

2 (8) Rules adopted under this section must provide that, in order to obtain a smoke shop certi-
 3 fication, a business must agree to allow the authority to make unannounced inspections of the
 4 business to determine compliance with ORS 433.835 to 433.875.

5 **SECTION 13.** ORS 323.718 is amended to read:

6 323.718. (1) Each person accepting a purchase order for a delivery sale, in connection with the
 7 delivery sale order, shall:

8 (a) Include as part of the shipping documents a clear and conspicuous statement providing as
 9 follows: “TOBACCO: OREGON LAW PROHIBITS SHIPPING TO INDIVIDUALS UNDER [18] 21
 10 AND REQUIRES THE PAYMENT OF ALL APPLICABLE TAXES”; and

11 (b) Use a method of mail, shipping or other delivery of tobacco described in this paragraph as
 12 follows:

13 (A) Unless subparagraph (B) of this paragraph applies, use a method of shipping or other deliv-
 14 ery that obligates the delivery service to require:

15 (i) The consumer placing the delivery sale order, or another individual of at least the legal
 16 minimum purchase age who resides at the residence of the consumer, to sign to accept delivery of
 17 the shipping container; and

18 (ii) Proof, in the form of a valid, government-issued identification bearing a photograph of the
 19 individual who signs to accept delivery of the shipping container, demonstrating that the individual
 20 who signs to accept delivery:

21 (I) Is either the consumer or another individual residing at the residence of the consumer; and

22 (II) Is at least the legal minimum purchase age, except that proof of age is required only if the
 23 individual appears to be under [27] 30 years of age.

24 (B) If the person is fulfilling a purchase order for a delivery sale by mailing tobacco, to the
 25 extent permitted by the United States Postal Service, use a method of mailing that requires the
 26 postal service to require:

27 (i) The consumer placing the delivery sale order, or another individual of at least the legal
 28 minimum purchase age residing at the residence of the consumer, to sign to accept delivery of the
 29 shipping container; and

30 (ii) Proof, in the form of a valid, government-issued identification bearing a photograph of the
 31 individual who signs to accept delivery of the shipping container, demonstrating that the individual
 32 who signs to accept delivery:

33 (I) Is either the consumer or another individual residing at the residence of the consumer; and

34 (II) Is at least the legal minimum purchase age, except that proof of age is required only if the
 35 individual appears to be under [27] 30 years of age.

36 (2) If the person accepting a purchase order for a delivery sale delivers the tobacco without
 37 using a delivery service or the United States Postal Service, the person shall comply with all re-
 38 quirements of ORS 323.700 to 323.730 that apply to a delivery service and shall be in violation of
 39 this section if the person fails to comply with all requirements applicable to a delivery service.

40 **SECTION 14.** ORS 339.883 is amended to read:

41 339.883. (1) As used in this section:

42 [(a)(A) “Facility” means a public or private school, youth correction facility or juvenile detention
 43 facility.]

44 [(B) “Facility” does not include a college, university, career or technical education school or com-
 45 munity college.]

1 (a) “Facility” means a public or private school, college, community college, university,
 2 career school, technical education school, youth correction facility or juvenile detention fa-
 3 cility.

4 (b) “Inhalant delivery system” has the meaning given that term in ORS 431A.175.

5 (c) “Tobacco products” has the meaning given that term in ORS 431A.175.

6 (2) A facility shall not permit *[any]* a person under *[18]* 21 years of age to possess tobacco pro-
 7 ducts or inhalant delivery systems while the person is present on facility grounds or in facility
 8 buildings or attending facility-sponsored activities.

9 (3) A facility must have a written policy prohibiting the possession of tobacco products and
 10 inhalant delivery systems by persons under *[18]* 21 years of age under the conditions described in
 11 subsection (2) of this section. The facility must have a written plan to implement the policy.

12 (4) This section does not apply to a person for whom a tobacco or nicotine product or a sub-
 13 stance to be used with an inhalant delivery system has been lawfully prescribed.

14
 15 **AFFIRMATIVE DEFENSES FOR IDENTITY CRIMES**

16
 17 **SECTION 15.** ORS 165.800 is amended to read:

18 165.800. (1) A person commits the crime of identity theft if the person, with the intent to deceive
 19 or to defraud, obtains, possesses, transfers, creates, utters or converts to the person’s own use the
 20 personal identification of another person.

21 (2) Identity theft is a Class C felony.

22 (3) It is an affirmative defense to violating subsection (1) of this section that the person charged
 23 with the offense:

24 (a) Was under 21 years of age at the time of committing the offense and the person used the
 25 personal identification of another person solely for the purpose of purchasing alcohol[;], **tobacco**
 26 **products as defined in ORS 431A.175 or inhalant delivery systems as defined in ORS 431A.175;**
 27 **or**

28 *[(b) Was under 18 years of age at the time of committing the offense and the person used the per-*
 29 *sonal identification of another person solely for the purpose of purchasing tobacco products or inhalant*
 30 *delivery systems, as those terms are defined in ORS 431A.175; or]*

31 *[(c)]* (b) Used the personal identification of another person solely for the purpose of misrepre-
 32 senting the person’s age to gain access to a:

33 (A) Place the access to which is restricted based on age; or

34 (B) Benefit based on age.

35 (4) As used in this section:

36 (a) “Another person” means an individual, whether living or deceased, an imaginary person or
 37 a firm, association, organization, partnership, business trust, company, corporation, limited liability
 38 company, professional corporation or other private or public entity.

39 (b) “Personal identification” includes, but is not limited to, any written document or electronic
 40 data that does, or purports to, provide information concerning:

41 (A) A person’s name, address or telephone number;

42 (B) A person’s driving privileges;

43 (C) A person’s Social Security number or tax identification number;

44 (D) A person’s citizenship status or alien identification number;

45 (E) A person’s employment status, employer or place of employment;

1 (F) The identification number assigned to a person by a person’s employer;

2 (G) The maiden name of a person or a person’s mother;

3 (H) The identifying number of a person’s depository account at a “financial institution” or “trust
4 company,” as those terms are defined in ORS 706.008, or a credit card account;

5 (I) A person’s signature or a copy of a person’s signature;

6 (J) A person’s electronic mail name, electronic mail signature, electronic mail address or elec-
7 tronic mail account;

8 (K) A person’s photograph;

9 (L) A person’s date of birth; and

10 (M) A person’s personal identification number.

11 **SECTION 16.** ORS 165.813 is amended to read:

12 165.813. (1) A person commits the crime of unlawful possession of fictitious identification if the
13 person possesses a personal identification card containing identification information for a fictitious
14 person with the intent to use the personal identification card to commit a crime.

15 (2) Unlawful possession of fictitious identification is a Class C felony.

16 (3) It is an affirmative defense to violating subsection (1) of this section that the person charged
17 with the offense[:]

18 [(a)] was under 21 years of age at the time of committing the offense and the person possessed
19 the personal identification card solely for the purpose of enabling the person to purchase alcohol[;
20 or], **tobacco products as defined in ORS 431A.175 or inhalant delivery systems as defined in**
21 **ORS 431A.175.**

22 [(b) *Was under 18 years of age at the time of committing the offense and the person possessed the*
23 *personal identification card solely for the purpose of enabling the person to purchase tobacco products*
24 *or inhalant delivery systems, as those terms are defined in ORS 431A.175.]*

25 **SECTION 17.** ORS 807.500 is amended to read:

26 807.500. (1) A person commits the offense of unlawful production of identification cards, licenses,
27 permits, forms or camera cards if the person, without the authority of the Department of Transpor-
28 tation, advertises for the production of, produces in any way or causes to be produced any facsimiles
29 of the identification cards, licenses, permits, forms or camera cards upon which the department is-
30 sues identification cards, licenses or driver permits under the vehicle code.

31 (2) The offense described in this section, unlawful production of identification cards, licenses,
32 permits, forms or camera cards, is a Class C felony.

33 (3) It is an affirmative defense to violating subsection (1) of this section that the person charged
34 with the offense[:]

35 [(a)] was under 21 years of age at the time of committing the offense and the person produced
36 an identification card, license or permit solely for the purpose of enabling the person to purchase
37 alcohol[; or], **tobacco products as defined in ORS 431A.175 or inhalant delivery systems as**
38 **defined in ORS 431A.175.**

39 [(b) *Was under 18 years of age at the time of committing the offense and the person produced an*
40 *identification card, license or permit solely for the purpose of enabling the person to purchase tobacco*
41 *products or inhalant delivery systems, as those terms are defined in ORS 431A.175.]*

42
43 **CONFORMING AMENDMENTS**

44
45 **SECTION 18.** ORS 163.575 is amended to read:

1 163.575. (1) A person commits the offense of endangering the welfare of a minor if the person
2 knowingly:

3 (a) Induces, causes or permits an unmarried person under 18 years of age to witness an act of
4 sexual conduct or sadomasochistic abuse as defined in ORS 167.060;

5 (b) Permits a person under 18 years of age to enter or remain in a place where unlawful activity
6 involving controlled substances is maintained or conducted;

7 (c) Induces, causes or permits a person under 18 years of age to participate in gambling as de-
8 fined in ORS 167.117; **or**

9 *[(d) Distributes, sells or allows to be sold tobacco in any form to a person under 18 years of*
10 *age;]*

11 *[(e) Distributes, sells or allows to be sold an inhalant delivery system, as defined in ORS 431A.175,*
12 *to a person under 18 years of age; or]*

13 *[(f)]* (d) Sells to a person under 18 years of age any device in which *[tobacco,]* marijuana, cocaine
14 or any controlled substance, as defined in ORS 475.005, is burned and the principal design and use
15 of which is directly or indirectly to deliver *[tobacco smoke,]* marijuana smoke, cocaine smoke or
16 smoke from any controlled substance into the human body, including but not limited to:

17 (A) Pipes, water pipes, hookahs, wooden pipes, carburetor pipes, electric pipes, air driven pipes,
18 corncob pipes, meerschaum pipes and ceramic pipes, with or without screens, permanent screens,
19 hashish heads or punctured metal bowls;

20 (B) Carburetion tubes and devices, including carburetion masks;

21 (C) Bonges;

22 (D) Chillums;

23 (E) Ice pipes or chillers;

24 (F) *[Cigarette]* Rolling papers and rolling machines; and

25 (G) Cocaine free basing kits.

26 (2) Endangering the welfare of a minor *[by violation of subsection (1)(a), (b) or (c) of this section,*
27 *by violation of subsection (1)(e) of this section if the inhalant delivery system contains or is a substance*
28 *containing a cannabinoid or by violation of subsection (1)(f) of this section involving other than a device*
29 *for smoking tobacco,]* is a Class A misdemeanor.

30 *[(3) Endangering the welfare of a minor by violation of subsection (1)(d) of this section is a Class*
31 *A violation.]*

32 *[(4) Endangering the welfare of a minor by violation of subsection (1)(e) of this section if the*
33 *inhalant delivery system does not contain or is not a substance containing a cannabinoid is a Class*
34 *A violation.]*

35 *[(5) Endangering the welfare of a minor by violation of subsection (1)(f) of this section involving*
36 *a device for smoking tobacco is a Class A violation.]*

37 **SECTION 19.** ORS 163.580 is amended to read:

38 163.580. (1) A person who sells any of the smoking devices listed in ORS 163.575 *[(1)(f)]* (1)(d)
39 shall display a sign clearly stating that the sale of such devices to persons under 18 years of age
40 is prohibited by law.

41 (2) *[Any]* A person who violates this section commits a Class B violation.

42 **SECTION 20.** ORS 181A.335 is amended to read:

43 181A.335. (1) As used in this section, "tobacco products" has the meaning given that term in
44 ORS 431A.175.

45 (2) The Oregon Health Authority may apply for and accept moneys from the United States

1 Government or other public or private sources for utilization of those moneys by the Department
 2 of State Police in accordance with any federal restrictions or other funding source restrictions to
 3 carry out the duties, functions and powers of the department under this section. Moneys received
 4 as provided under this subsection shall be deposited into the State Treasury to the credit of the
 5 State Police Tobacco Law Enforcement Fund. Moneys that are subject to funding source conditions
 6 or restrictions shall be placed in separate subaccounts of the fund and accounted for separately from
 7 other fund moneys.

8 (3) The department shall establish and administer a program employing retired state police of-
 9 ficers who are active reserve officers for the purpose of enforcing laws designed to discourage the
 10 use of tobacco products by persons **who are** under [18 years of] **the legal minimum purchase** age.
 11 The department shall periodically consult with the authority to maximize program qualification for
 12 federal funds to enforce laws designed to discourage the use of tobacco products by persons **who**
 13 **are** under [18 years of] **the legal minimum purchase** age, including but not limited to grants under
 14 P.L. 102-321, section 1926 (42 U.S.C. 300x-26). Service by a retired state police member under this
 15 section is subject to ORS 238.082. The department may not use the services of a retired state police
 16 officer under this section to displace an active state police member from the enforcement of laws
 17 concerning tobacco products.

18 (4) The department shall adopt rules for carrying out subsection (3) of this section.

19 **SECTION 21.** ORS 323.709 is amended to read:

20 323.709. A person may not mail or ship tobacco in connection with a delivery sale order unless
 21 the person, before mailing or shipping the tobacco, does all of the following:

22 (1) Obtains a certification from the prospective consumer that includes a written statement
 23 signed by the prospective consumer that:

24 (a) Certifies the prospective consumer's address and that the prospective consumer is at least
 25 the legal minimum purchase age; and

26 (b) Confirms that the prospective consumer understands that signing another person's name to
 27 the certification is illegal, that the sale of tobacco to individuals under the legal minimum purchase
 28 age is illegal and that the purchase of tobacco by individuals under the legal minimum purchase age
 29 is illegal [*under ORS 167.401*];

30 (2) Verifies the information contained in the certification against a commercially available da-
 31 tabase of government-collected information showing the age or date of birth of the individual placing
 32 the order and obtains a photocopy or other image of a valid, government-issued identification stating
 33 the age or date of birth of the individual placing the order;

34 (3) Provides a notice to the prospective consumer, via electronic mail or other means, that meets
 35 the requirements of ORS 323.715; and

36 (4) In the case of an order for tobacco placed through an Internet website, receives payment for
 37 the delivery sale from the prospective purchaser by a credit or debit card that has been issued in
 38 the name of the prospective purchaser or by a personal check issued by the prospective purchaser.

39 **SECTION 22.** ORS 339.257 is amended to read:

40 339.257. (1) The principal or a designee of the principal of a secondary school shall provide
 41 documentation of enrollment status on a form provided by the Department of Transportation to any
 42 student at least 15 years of age and under 18 years of age who is properly enrolled in the school,
 43 whose driving privileges are suspended under ORS 809.423 [(3)] (2) and who needs the documentation
 44 in order to apply for issuance or reinstatement of driving privileges. The form shall be available at
 45 the administrative offices of the school district for a student who applies for issuance or rein-

1 statement of driving privileges during school holidays.

2 (2) A school district board may establish a policy authorizing the superintendent of the school
3 district or the board to notify the department of the withdrawal from school of a student who is at
4 least 15 years of age and under 18 years of age. For purposes of this subsection, a student shall
5 be considered to have withdrawn from school after more than 10 consecutive school days of unex-
6 cused absences or 15 school days total of unexcused absences during a single semester. A policy
7 adopted under this subsection shall include a provision allowing a student to appeal a decision to
8 notify the department.

9 (3) The governing body of a private school may establish a policy authorizing a representative
10 of the school to notify the department of a student's withdrawal. Terms and conditions of the policy
11 shall be the same as those described in subsection (2) of this section for a school district board.

12 **SECTION 23.** ORS 743B.013 is amended to read:

13 743B.013. (1) A health benefit plan issued to a small employer:

14 (a) Other than a grandfathered health plan, must cover essential health benefits consistent with
15 42 U.S.C. 300gg-11.

16 (b) May require an affiliation period that does not exceed two months for an enrollee or 90 days
17 for a late enrollee.

18 (c) May not apply a preexisting condition exclusion to any enrollee.

19 (2) Late enrollees in a small employer health benefit plan may be subjected to a group eligibility
20 waiting period that does not exceed 90 days.

21 (3) Each small employer health benefit plan shall be renewable with respect to all eligible
22 enrollees at the option of the policyholder, small employer or contract holder unless:

23 (a) The policyholder, small employer or contract holder fails to pay the required premiums.

24 (b) The policyholder, small employer or contract holder or, with respect to coverage of individ-
25 ual enrollees, an enrollee or a representative of an enrollee engages in fraud or makes an inten-
26 tional misrepresentation of a material fact as prohibited by the terms of the plan.

27 (c) The number of enrollees covered under the plan is less than the number or percentage of
28 enrollees required by participation requirements under the plan.

29 (d) The small employer fails to comply with the contribution requirements under the health
30 benefit plan.

31 (e) The carrier discontinues both offering and renewing all of its small employer health benefit
32 plans in this state or in a specified service area within this state. In order to discontinue plans un-
33 der this paragraph, the carrier:

34 (A) Must give notice of the decision to the Department of Consumer and Business Services and
35 to all policyholders covered by the plans;

36 (B) May not cancel coverage under the plans for 180 days after the date of the notice required
37 under subparagraph (A) of this paragraph if coverage is discontinued in the entire state or, except
38 as provided in subparagraph (C) of this paragraph, in a specified service area; and

39 (C) May not cancel coverage under the plans for 90 days after the date of the notice required
40 under subparagraph (A) of this paragraph if coverage is discontinued in a specified service area
41 because of an inability to reach an agreement with the health care providers or organization of
42 health care providers to provide services under the plans within the service area.

43 (f) The carrier discontinues both offering and renewing a small employer health benefit plan in
44 a specified service area within this state because of an inability to reach an agreement with the
45 health care providers or organization of health care providers to provide services under the plan

1 within the service area. In order to discontinue a plan under this paragraph, the carrier:

2 (A) Must give notice to the department and to all policyholders covered by the plan;

3 (B) May not cancel coverage under the plan for 90 days after the date of the notice required
4 under subparagraph (A) of this paragraph; and

5 (C) Must offer in writing to each small employer covered by the plan, all other small employer
6 health benefit plans that the carrier offers to small employers in the specified service area. The
7 carrier shall issue any such plans pursuant to the provisions of ORS 743B.010 to 743B.013. The
8 carrier shall offer the plans at least 90 days prior to discontinuation.

9 (g) The carrier discontinues both offering and renewing a health benefit plan, other than a
10 grandfathered health plan, for all small employers in this state or in a specified service area within
11 this state, other than a plan discontinued under paragraph (f) of this subsection.

12 (h) The carrier discontinues both offering and renewing a grandfathered health plan for all small
13 employers in this state or in a specified service area within this state, other than a plan discontin-
14 ued under paragraph (f) of this subsection.

15 (i) With respect to plans that are being discontinued under paragraph (g) or (h) of this sub-
16 section, the carrier must:

17 (A) Offer in writing to each small employer covered by the plan, all other health benefit plans
18 that the carrier offers to small employers in the specified service area.

19 (B) Issue any such plans pursuant to the provisions of ORS 743B.010 to 743B.013.

20 (C) Offer the plans at least 90 days prior to discontinuation.

21 (D) Act uniformly without regard to the claims experience of the affected policyholders or the
22 health status of any current or prospective enrollee.

23 (j) The Director of the Department of Consumer and Business Services orders the carrier to
24 discontinue coverage in accordance with procedures specified or approved by the director upon
25 finding that the continuation of the coverage would:

26 (A) Not be in the best interests of the enrollees; or

27 (B) Impair the carrier's ability to meet contractual obligations.

28 (k) In the case of a small employer health benefit plan that delivers covered services through
29 a specified network of health care providers, there is no longer any enrollee who lives, resides or
30 works in the service area of the provider network.

31 (L) In the case of a health benefit plan that is offered in the small employer market only to one
32 or more bona fide associations, the membership of an employer in the association ceases and the
33 termination of coverage is not related to the health status of any enrollee.

34 (4) A carrier may modify a small employer health benefit plan at the time of coverage renewal.
35 The modification is not a discontinuation of the plan under subsection (3)(e), (g) and (h) of this sec-
36 tion.

37 (5) Notwithstanding any provision of subsection (3) of this section to the contrary, a carrier may
38 not rescind the coverage of an enrollee in a small employer health benefit plan unless:

39 (a) The enrollee or a person seeking coverage on behalf of the enrollee:

40 (A) Performs an act, practice or omission that constitutes fraud; or

41 (B) Makes an intentional misrepresentation of a material fact as prohibited by the terms of the
42 plan;

43 (b) The carrier provides at least 30 days' advance written notice, in the form and manner pre-
44 scribed by the department, to the enrollee; and

45 (c) The carrier provides notice of the rescission to the department in the form, manner and time

1 frame prescribed by the department by rule.

2 (6) Notwithstanding any provision of subsection (3) of this section to the contrary, a carrier may
3 not rescind a small employer health benefit plan unless:

4 (a) The small employer or a representative of the small employer:

5 (A) Performs an act, practice or omission that constitutes fraud; or

6 (B) Makes an intentional misrepresentation of a material fact as prohibited by the terms of the
7 plan;

8 (b) The carrier provides at least 30 days' advance written notice, in the form and manner pre-
9 scribed by the department, to each plan enrollee who would be affected by the rescission of cover-
10 age; and

11 (c) The carrier provides notice of the rescission to the department in the form, manner and time
12 frame prescribed by the department by rule.

13 (7)(a) A carrier may continue to enforce reasonable employer participation and contribution re-
14 quirements on small employers. However, participation and contribution requirements shall be ap-
15 plied uniformly among all small employer groups with the same number of eligible employees
16 applying for coverage or receiving coverage from the carrier. In determining minimum participation
17 requirements, a carrier shall count only those employees who are not covered by an existing group
18 health benefit plan, Medicaid, Medicare, TRICARE, Indian Health Service or a publicly sponsored
19 or subsidized health plan, including but not limited to the medical assistance program under ORS
20 chapter 414.

21 (b) A carrier may not deny a small employer's application for coverage under a health benefit
22 plan based on participation or contribution requirements but may require small employers that do
23 not meet participation or contribution requirements to enroll during the open enrollment period
24 beginning November 15 and ending December 15.

25 (8) Premium rates for small employer health benefit plans, except grandfathered health plans,
26 shall be subject to the following provisions:

27 (a) Each carrier must file with the department the initial geographic average rate and any
28 changes in the geographic average rate with respect to each health benefit plan issued by the car-
29 rier to small employers.

30 (b)(A) The variations in premium rates charged during a rating period for health benefit plans
31 issued to small employers shall be based solely on the factors specified in subparagraph (B) of this
32 paragraph. A carrier may elect which of the factors specified in subparagraph (B) of this paragraph
33 apply to premium rates for health benefit plans for small employers. All other factors must be ap-
34 plied in the same actuarially sound way to all small employer health benefit plans.

35 (B) The variations in premium rates described in subparagraph (A) of this paragraph may be
36 based only on one or more of the following factors as prescribed by the department by rule:

37 (i) The ages of enrolled employees and their dependents, except that the rate for adults may not
38 vary by more than three to one;

39 (ii) The level at which enrolled employees and their dependents [*18 years of age and older*] en-
40 gage in tobacco use, except that the rate may not vary by more than 1.5 to one; and

41 (iii) Adjustments to reflect differences in family composition.

42 (C) A carrier shall apply the carrier's schedule of premium rate variations as approved by the
43 department and in accordance with this paragraph. Except as otherwise provided in this section, the
44 premium rate established by a carrier for a small employer health benefit plan shall apply uniformly
45 to all employees of the small employer enrolled in that plan.

1 (c) Except as provided in paragraph (b) of this subsection, the variation in premium rates be-
2 tween different health benefit plans offered by a carrier to small employers must be based solely on
3 objective differences in plan design or coverage, age, tobacco use and family composition and must
4 not include differences based on the risk characteristics of groups assumed to select a particular
5 health benefit plan.

6 (d) A carrier may not increase the rates of a health benefit plan issued to a small employer more
7 than once in a 12-month period. Annual rate increases shall be effective on the plan anniversary
8 date of the health benefit plan issued to a small employer. The percentage increase in the premium
9 rate charged to a small employer for a new rating period may not exceed the sum of the following:

10 (A) The percentage change in the geographic average rate measured from the first day of the
11 prior rating period to the first day of the new period; and

12 (B) Any adjustment attributable to changes in age and differences in family composition.

13 (9) Premium rates for grandfathered health plans shall be subject to requirements prescribed by
14 the department by rule.

15 (10) In connection with the offering for sale of any health benefit plan to a small employer, each
16 carrier shall make a reasonable disclosure as part of its solicitation and sales materials of:

17 (a) The full array of health benefit plans that are offered to small employers by the carrier;

18 (b) The authority of the carrier to adjust rates and premiums, and the extent to which the car-
19 rier considers age, tobacco use, family composition and geographic factors in establishing and ad-
20 justing rates and premiums; and

21 (c) The benefits and premiums for all health insurance coverage for which the employer is
22 qualified.

23 (11)(a) Each carrier shall maintain at its principal place of business a complete and detailed
24 description of its rating practices and renewal underwriting practices relating to its small employer
25 health benefit plans, including information and documentation that demonstrate that its rating
26 methods and practices are based upon commonly accepted actuarial practices and are in accordance
27 with sound actuarial principles.

28 (b) A carrier offering a small employer health benefit plan shall file with the department at least
29 once every 12 months an actuarial certification that the carrier is in compliance with ORS 743B.010
30 to 743B.013 and that the rating methods of the carrier are actuarially sound. Each certification shall
31 be in a uniform form and manner and shall contain such information as specified by the department.
32 A copy of each certification shall be retained by the carrier at its principal place of business. A
33 carrier is not required to file the actuarial certification under this paragraph if the department has
34 approved the carrier's rate filing within the preceding 12-month period.

35 (c) A carrier shall make the information and documentation described in paragraph (a) of this
36 subsection available to the department upon request. Except as provided in ORS 743.018 and except
37 in cases of violations of ORS 743B.010 to 743B.013, the information shall be considered proprietary
38 and trade secret information and shall not be subject to disclosure to persons outside the depart-
39 ment except as agreed to by the carrier or as ordered by a court of competent jurisdiction.

40 (12) A carrier shall not provide any financial or other incentive to any insurance producer that
41 would encourage the insurance producer to sell health benefit plans of the carrier to small employer
42 groups based on a small employer group's anticipated claims experience.

43 (13) For purposes of this section, the date a small employer health benefit plan is continued shall
44 be the anniversary date of the first issuance of the health benefit plan.

45 (14) A carrier must include a provision that offers coverage to all eligible employees of a small

1 employer and to all dependents of the eligible employees to the extent the employer chooses to offer
2 coverage to dependents.

3 (15) All small employer health benefit plans shall contain special enrollment periods during
4 which eligible employees and dependents may enroll for coverage, as provided by federal law and
5 rules adopted by the department.

6 (16) A small employer health benefit plan may not impose annual or lifetime limits on the dollar
7 amount of essential health benefits.

8 **SECTION 24.** ORS 807.066 is amended to read:

9 807.066. (1) Subject to subsection (2) of this section, the Department of Transportation may not
10 issue driving privileges to a person who is under 18 years of age unless:

11 (a) The person has graduated from high school and provides the department with proof of
12 graduation satisfactory to the department;

13 (b) The person has received a General Educational Development (GED) certificate from a com-
14 munity college and provides the department with proof of the certificate satisfactory to the depart-
15 ment; or

16 (c) The person's parent or legal guardian certifies that the person is:

17 (A) Enrolled in a school of this state, or any other state or any other country;

18 (B) Enrolled in a community college and making satisfactory progress toward a General Edu-
19 cational Development (GED) certificate or high school diploma;

20 (C) Being taught by a private teacher, legal guardian or parent in compliance with ORS 339.035;

21 (D) Exempted from school attendance requirements due to circumstances beyond the control of
22 the person; or

23 (E) Exempt under ORS 339.030 (2) from the requirement to attend school.

24 (2) The department may not issue driving privileges to a person who is under 18 years of age
25 and whose driving privileges are suspended under ORS 809.423 [(3)] (2) for withdrawing from school
26 unless the person:

27 (a) Has graduated from high school and provides the department with proof of graduation sat-
28 isfactory to the department;

29 (b) Has received a General Educational Development (GED) certificate from a community col-
30 lege and provides the department with proof of the certificate satisfactory to the department;

31 (c) Provides the department with a form provided by the department and signed by the principal,
32 or the designee of the principal, of the school attended by the person that declares that the person
33 is enrolled in a school of this state, or any other state or any other country;

34 (d) Provides the department with a form provided by the department and signed by the author-
35 ized representative of the community college attended by the person that declares that the person
36 is making satisfactory progress toward a General Educational Development (GED) certificate;

37 (e) Provides the department with a form provided by the department and signed by the author-
38 ized representative of the community college attended by the person that declares that the person
39 is making satisfactory progress toward a high school diploma;

40 (f) Provides the department with a form provided by the department and signed by the author-
41 ized representative of the education service district or school district having jurisdiction over the
42 area of the person's residence that declares that the person is being taught by a private teacher,
43 legal guardian or parent in compliance with ORS 339.035;

44 (g) Provides the department with documentation satisfactory to the department that indicates
45 that the person is exempted from school attendance requirements due to circumstances beyond the

1 control of the person; or

2 (h) Provides the department with documentation satisfactory to the department that the person
3 is exempt under ORS 339.030 (2) from the requirement to attend school.

4 **SECTION 25.** ORS 809.380 is amended to read:

5 809.380. All of the following apply to a person whose driving privileges have been suspended:

6 (1) The period of suspension shall last as long as provided for that particular suspension by law.

7 (2) During the period of suspension, the person is not entitled to exercise any driving privileges
8 in this state except as provided under this subsection. Unless otherwise specifically provided by law,
9 a person whose driving privileges are suspended may obtain, if the person qualifies, a hardship
10 driver permit under ORS 807.240, and exercise driving privileges under the driver permit.

11 (3) Upon expiration of the suspension, the Department of Transportation shall reissue, upon re-
12 quest of the person, the suspended driving privileges and any license or driver permit that evidences
13 the driving privileges. The reissuance shall be without requalification by the person except that the
14 department may require the person to furnish evidence satisfactory to the department that the per-
15 son is qualified to continue to exercise driving privileges in this state before the department reissues
16 the driving privileges.

17 (4) The department may not issue any driving privileges in contradiction to this section.

18 (5) If the person fails to surrender to the department any license or driver permit issued as ev-
19 idence of driving privileges that are suspended, the person is subject to the penalties under ORS
20 809.500.

21 (6) No reinstatement of suspended driving privileges will be made by the department until the
22 fee for reinstatement of suspended driving privileges established under ORS 807.370 is paid to or
23 waived by the department. The department may waive the reinstatement fee for any of the following
24 reasons:

25 (a) The suspension occurred under ORS 809.419 for failure to take an examination upon request
26 of the department under ORS 807.340.

27 (b) The suspension occurred under ORS 809.419 for failure to obtain required medical clearance
28 upon request of the department under ORS 807.070 or 807.090.

29 (c) The suspension occurred under ORS 809.419 for incompetence to drive a motor vehicle or
30 having a mental or physical condition or impairment that affects the person's ability to safely op-
31 erate a motor vehicle.

32 (d) The suspension occurred under ORS 809.419 upon notification by the superintendent of a
33 hospital under ORS 807.700 that a person should not drive.

34 (e) The suspension occurred under ORS 809.419 upon notification by a court under ORS 810.375
35 that a person charged with a traffic offense has been found guilty except for insanity.

36 (f) The department committed an error in issuing the suspension.

37 (g) The suspension was the result of an error committed by an insurance company in issuing or
38 failing to issue a certification of insurance or in canceling a certification of insurance filed with the
39 department under ORS 806.270.

40 (h) The department issued the suspension without error because the person failed to respond as
41 required under ORS 806.160 or to furnish proof of exemption under ORS 806.210 from the filing re-
42 quirement of ORS 806.200, but the department later determines that the person in fact was in com-
43 pliance with financial responsibility requirements as of the date of the department's letter of
44 verification under ORS 806.150 or at the time of an accident described in ORS 806.200.

45 (i) The department issued the suspension without error because the person was not in compli-

1 ance with financial responsibility requirements as of the date of the department’s letter of verifica-
2 tion under ORS 806.150 or at the time of an accident described in ORS 806.200, but the department
3 later determines that the person reasonably and in good faith believed that the person was in com-
4 pliance with financial responsibility requirements on the date of the department’s letter of verifica-
5 tion or at the time of the accident.

6 (j) The suspension was the result of an error committed by an insurance company in notifying
7 the department regarding the correctness of a certification under ORS 806.150.

8 (k) The suspension occurred because the person failed to make future responsibility filings but
9 the department later determines that the reason for the failure was that the person was a military
10 reservist or a member of a national guard unit that was ordered to active military duty to a location
11 outside of the United States. The effective date of the military orders must be prior to the effective
12 date of a suspension issued by the department for failure to make a future responsibility filing.

13 (L) The department issued the suspension without error because the department received a no-
14 tice to suspend from a court under ORS 809.210 or 809.220, but the department later determines that
15 the person in fact was in compliance with the requirements of the court prior to the effective date
16 of the suspension.

17 (7) The department shall waive the reinstatement fee for a person whose driving privileges were
18 suspended under ORS 809.423 [(3)] (2) if the person:

19 (a) Has graduated from high school and provides the department with proof of graduation sat-
20 isfactory to the department; or

21 (b) Has received a General Educational Development (GED) certificate from a community col-
22 lege and provides the department with proof of the certificate satisfactory to the department.

23 **SECTION 26.** ORS 809.423 is amended to read:

24 809.423. (1) Upon request by a school superintendent or a school district board under ORS
25 339.254, the Department of Transportation shall suspend the driving privileges of a person. The
26 suspension shall be for the amount of time stated in the request. A person is entitled to adminis-
27 trative review under ORS 809.440 of a suspension under this subsection.

28 [(2) Upon receipt of notification of a court order that a person’s driving privileges be suspended for
29 violation of ORS 167.401, the department shall suspend the driving privileges of the person subject to
30 the order for the time specified in the order. A person is entitled to administrative review under ORS
31 809.440 of a suspension under this subsection.]

32 [(3)] (2) Upon receipt of a notice under ORS 339.257 that a person under 18 years of age has
33 withdrawn from school, the department shall notify the person that driving privileges will be sus-
34 pended on the 30th day following the date of the notice unless the person presents documentation
35 that complies with ORS 807.066. A suspension under this subsection shall continue until the person
36 reaches 18 years of age or until the person presents documentation that complies with ORS 807.066.
37 Appeals of a suspension under this subsection shall be as provided by a school district or private
38 school under a policy adopted in accordance with ORS 339.257.

39
40 **REPEAL**

41
42 **SECTION 27.** ORS 167.400 and 167.401 are repealed.

43
44 **APPLICABILITY**

1 **SECTION 28.** Sections 2 to 5 of this 2017 Act, the amendments to ORS 163.575, 163.580,
2 165.800, 165.813, 167.402, 167.404, 167.407, 181A.335, 323.709, 323.718, 339.257, 339.883, 431A.175,
3 431A.183, 433.847, 743B.013, 807.066, 807.500, 809.380, 809.423 and 811.193 by sections 6 to 26 of
4 this 2017 Act and the repeal of ORS 167.400 and 167.401 by section 27 of this 2017 Act apply
5 to conduct occurring on or after January 1, 2018.

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8

UNIT CAPTIONS

9 **SECTION 29.** The unit captions used in this 2017 Act are provided only for the conven-
10 ience of the reader and do not become part of the statutory law of this state or express any
11 legislative intent in the enactment of this 2017 Act.

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EMERGENCY CLAUSE

15 **SECTION 30.** This 2017 Act being necessary for the immediate preservation of the public
16 peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect
17 on its passage.

18

