

# House Bill 2969

Sponsored by Representatives POST, HOYLE, MCLANE; Representatives BARKER, BARRETO, BARTON, BENTZ, BUCKLEY, BUEHLER, DAVIS, DOHERTY, ESQUIVEL, FAGAN, HACK, HEARD, HUFFMAN, JOHNSON, KENNEMER, KRIEGER, NEARMAN, OLSON, RAYFIELD, SMITH, STARK, WEIDNER, WHISNANT, WILSON, WITT, Senators FERRIOLI, JOHNSON, KNOPP, KRUSE

## 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**.

Allows on-premises consumption of food and nonalcoholic beverages at certified smoke shops.  
Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to activities permitted at certified smoke shops; amending ORS 433.847; and declaring an  
3 emergency.

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

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

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

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

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

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

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

16 (D) Does not sell[,] **or** offer [*or allow on-premises consumption of*] food or beverages[, *including*]  
17 **and does not sell, offer or allow on-premises consumption of** alcoholic beverages;

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

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

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

23 (b) On December 31, 2008:

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

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

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

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

30 [*(B) Met the requirements of ORS 433.835 (5), as in effect immediately before June 30, 2011, at the*

**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 *time of application;]*

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

4 [(D)] (B) Allows **the** smoking of cigarettes only if at least 75 percent of the gross revenues of  
5 the 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 (5), 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 (5), as in effect immediately before June 30, 2011;  
45 and

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

3 (8) [*The*] Rules adopted under [*subsection (1) of*] this section must provide that, in order to obtain  
4 a smoke shop certification, a business must agree to allow the authority to make unannounced in-  
5 spections of the business to determine compliance with ORS 433.835 to 433.875.

6 **SECTION 2. This 2015 Act being necessary for the immediate preservation of the public**  
7 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**  
8 **on its passage.**

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