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OREGON ADMINISTRATIVE RULES
OREGON HEALTH AUTHORITY, PUBLIC HEALTH DIVISION
CHAPTER 333

DIVISION 15

IMPLEMENTATION OF REQUIREMENTS FOR ~~SMOKEFREE ENVIRONMENTS IN WORKPLACES AND PUBLIC PLACES~~ OREGON'S INDOOR CLEAN AIR ACT, AND FOR NUTRITIONAL INFORMATION AT CHAIN RESTAURANTS, STANDARDS FOR REDUCING THE SALE OF TOBACCO AND INHALANT DELIVERY SYSTEMS TO MINORS AND PACKAGING AND LABELING REQUIREMENTS FOR INHALANT DELIVERY SYSTEMS

Oregon Indoor Clean Air Act

[333-015-0025 – 333-015-0085]

Oregon Menu Labeling Act

[333-015-0100 – 333-015-0165]

Tobacco and Inhalant Delivery Systems Sales to Minors

333-015-0200

Definitions

(1) "Authority" means the Oregon Health Authority.

(2) "Block grant" means the Substance Abuse Prevention and Treatment Block Grant pursuant to 42 USC 300x21e et seq.

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

(A) 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

(B) A component of a device described in this subsection or a substance in any form sold for the purpose of being vaporized or aerosolized by a device described in this subsection, 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; and

(B) Tobacco products.

(4) "Minor" means an individual under 18 years of age.

(5) "Outlet" means any location which sells at retail or otherwise distributes tobacco products or inhalant delivery systems to consumers including, but not limited to, locations that sell such products over the counter or through vending machines.

(6) "Secretary" means the Secretary of the United States Department of Health and Human Services.

(7) "Smoking instrument" means any cigar, cigarette, pipe or other instrument used to smoke tobacco, marijuana, cocaine or other inhalant as defined in ORS 433.835 and ORS 163.575.

(8) "Tobacco product" means bidis, cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco, snuff, snuff flour, cavendish, shisha, hookah tobacco,

plug and twist tobacco, fine-cut and other chewing tobaccos, shorts, refuse scraps, clippings, cutting and sweepings of tobacco prepared in such a manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking, and cigarettes as defined in ORS 431A.175.
(9) "Vending machine" means a mechanical, electronic or similar device that, upon the insertion of tokens, money or another form of payment, dispense tobacco products or inhalant delivery systems as defined in ORS 167.402.

Stat. Auth.: ORS 431A.183

Stats. Implemented: 431A.183

333-015-0205

Notice Posting Requirement

(1) An outlet must post a notice substantially similar to the notice described in section (2) of this rule in a location that is clearly visible to the seller and the purchaser.

(2) Content of the Notice: NOTICE: The sale of tobacco products, smoking instruments and inhalant delivery systems to persons under 18 years of age is prohibited by law. Any person who sells, or allows to be sold, a tobacco product, smoking instrument or inhalant delivery system to a person under 18 years of age is in violation of Oregon law.

(3) The Authority may impose a civil penalty for each violation of this rule that is not less than \$250 or more than \$1,000.

Stat. Auth.: ORS 431A.175, 431A.178

Stats. Implemented: 431A.175, 431A.178

333-015-0210

Location of Tobacco Products Within a Retail Store

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

(2) This rule does not apply to a person if the location at which the tobacco products or inhalant delivery systems are sold is a store or other establishment at which persons under 18 years of age are prohibited.

Stat. Auth.: ORS 163.575, 167.400, 167.402, 167.407, 431A.175, 431A.183

Stats. Implemented: ORS 431A.183

333-015-0215

Enforcement

(1) The Authority shall coordinate with law enforcement agencies to conduct random, unannounced inspections of wholesalers and retailers of tobacco products, smoking instruments or inhalant delivery systems to ensure compliance with, and to enforce, the laws of this state designed to discourage the sale of tobacco products, smoking instruments and inhalant delivery systems to minors. Nothing in these rules shall preempt local jurisdictions from passing ordinances to conduct unannounced inspections.

(2) Random Sample Procedures: Random, unannounced inspections will be based on the following methodological procedures

(a) Cover a range of outlets, not to be preselected on the basis of prior violations, to measure overall levels of compliance as well as to identify violations;

(b) Be conducted in such a way as to provide a probability sample of outlets in order to estimate the success of enforcement actions being taken throughout the state;

(c) Use reliable methodological design and adequate sample design to reflect:

(A) Distribution of the population of those under 18 throughout the state; and
(B) Distribution of outlets throughout the state that are accessible to minors; and
(d) Be conducted at times when minors are likely to purchase tobacco products, smoking instruments or inhalant delivery systems.
(3) Targeted Inspections: The Authority may conduct targeted inspections of outlets where a compliance problem exists or is suspected. Information gained in targeted inspection will not be included in data used to determine rate of offense in random inspections.
(4) Conducting Inspections: Inspections may take place:
(a) Only in areas open to the public;
(b) Only during the hours that tobacco products, smoking instruments or inhalant delivery systems are sold; and
(c) No more frequently than once a month in any single outlet unless a compliance problem exists or is suspected. For purposes of this rule, a "single outlet" refers to a specific address location of an outlet, regardless of ownership.
(5) The Authority may use minors to complete inspections to determine compliance with these rules.
Stat. Auth.: ORS 431A.183
Stats. Implemented: ORS 431A.183

333-015-0220

Annual Report

(1) Contents of Report: The Authority shall annually submit a report to the Oregon Legislature and to the Secretary, along with the state's application for block grant funding. The report shall include:
(a) A description of the state's activities to enforce the laws described in OAR 333-015-0200 through OAR 333-015-0215 during the fiscal year preceding the fiscal year for which the state is seeking the grant;
(b) A description outlining the overall success the state has achieved during the previous fiscal year in reducing the availability of tobacco products, smoking instruments and inhalant delivery systems to individuals under the age of 18, showing:
(A) Results of the random and targeted unannounced inspections;
(B) Results of over-the-counter and vending machine outlet inspections reported separately;
(c) A description of how the unannounced inspections were conducted and the methods used to identify outlets; and
(d) Strategies to be utilized by the state for enforcing such laws during the fiscal year for which the grant is sought.
(2) Public Comment Required: The annual report shall be made public and public comment shall be obtained and considered before submitting the report to the Secretary.
Stat. Auth.: ORS 431A.183
Stats. Implemented: ORS 431A.183