

**Enrolled**  
**House Bill 2969**

Sponsored by Representatives POST, HOYLE, MCLANE, Senator EDWARDS; 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

CHAPTER .....

AN ACT

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

**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.

(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 [*intended for off-premises consumption or use*] **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** [*or allow on-premises consumption of*] food or beverages[, *including*] **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 [*sampling tobacco products for*] making retail purchase decisions;

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

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

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

[(D)] (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)(b) of this section must renew the smoke shop certification every five years by 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) A smoke shop certified under subsection (2)(c) of this section must renew the smoke shop certification every five years by demonstrating to the satisfaction of the authority that the smoke shop:

(a) Meets the requirements of ORS 433.835 (5), 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) 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) 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:

(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 standards 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) 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:

(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 (5), 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) [The] Rules adopted under [subsection (1) of] 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.

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

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**Passed by House March 25, 2015**

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

**Passed by Senate April 30, 2015**

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Peter Courtney, President of Senate

**Received by Governor:**

.....M,....., 2015

**Approved:**

.....M,....., 2015

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Kate Brown, Governor

**Filed in Office of Secretary of State:**

.....M,....., 2015

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Jeanne P. Atkins, Secretary of State