

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

DIVISION 15
IMPLEMENTATION OF REQUIREMENTS FOR OREGON'S INDOOR CLEAN AIR
ACT, NUTRITIONAL INFORMATION AT CHAIN RESTAURANTS AND
STANDARDS FOR REDUCING THE SALE OF TOBACCO AND INHALANT
DELIVERY SYSTEMS TO MINORS

Oregon Indoor Clean Air Act

333-015-0030

Definitions

For purposes of OAR chapter 333, division 15, the following definitions shall apply:

- (1) "Accessibility ramp" means a ramp intended to provide access for people with disabilities to and from an entrance or exit.
- (2) "Act" means the Oregon Indoor Clean Air Act as it appears in ORS 433.835 through 433.875 and 433.990(5).
- (3) "Authority" means the Oregon Health Authority.
- (4) "Certificate holder" means the individual or entity on record with the Oregon Health Authority as the owner of a certified cigar bar or smoke shop.
- (5) "Cigar bar" means a business that:
 - (a) Has on-site sales of cigars as defined in ORS 323.500;
 - (b) Has a humidor on the premises;
 - (c) Allows the smoking of cigars on the premises but prohibits the smoking, aerosolizing or vaporizing of other inhalants on the premises;
 - (d) Has been issued and operates under a full on-premises sales license issued under ORS 471.175;
 - (e) Prohibits persons under 21 years of age from entering the premises and posts notice of the prohibition;
 - (f) Does not offer video lottery games as authorized under ORS 461.217;
 - (g) Has a maximum seating capacity of 40 persons;
 - (h) 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
 - (i) Requires all employees to read and sign a form approved and published by the Public Health Division that explains the dangers of exposure to secondhand smoke.
- (6) "Cigarillos" means a smoking device wrapped in tobacco leaf, rather than paper, that contains less than three grams of tobacco and measures less than 100 mm in length.
- (7) "Employer" means any entity or individual who engages an individual to perform work or services in an area where smoking is prohibited under the employer's control.
- (8) "Enclosed area" means the entirety of the all-space between a floor and a ceiling that is enclosed on ~~two~~ three or more sides by permanent or temporary walls or windows, exclusive of doors or; passageways or gaps. ~~If no ceiling is present, "enclosed area" means all space that is~~

~~included by three or more sides by permanent or temporary walls or windows, exclusive of doors, passageways or gaps.~~

(9) "Entity in charge of a public place" means any person or organization that has responsibility because of ownership, proprietorship, management, or oversight over a place that is open to the public. Entity in charge of a public place is used to refer only to a person or organization in charge that is not also an employer.

(10) "Entrance" means any point of ingress, including an accessibility ramp, to an enclosed area from a non-enclosed area.

(11) "Exit" means any point of egress, including an accessibility ramp, from an enclosed area to a non-enclosed area.

(12) "Extended period of time" means more than 365 consecutive days.

(13) "Gross revenue" means all receipts from the sale of product(s) less the amount of any rebates, refunds, or credits.

(14) "Humidor" means a storage container designed to allow controlled airflow and equipped with a device that maintains the internal humidity in the range of 68 percent to 75 percent and an internal temperature in the range of 68 degrees to 70 degrees Fahrenheit.

(15) "Inhalant" means nicotine, a cannabinoid or any other substance that:

(a) Is in a form that allows the nicotine, cannabinoid or substance to be delivered into a person's respiratory system;

(b) Is inhaled for the purpose of delivering the nicotine, cannabinoid or other substance into a person's respiratory system; and

(c)(A) Is not approved by, or emitted by a device approved by, the United States Food and Drug Administration for a therapeutic purpose; or

(B) If approved by, or emitted by a device approved by, the United States Food and Drug Administration for a therapeutic purpose, is not marketed and sold solely for that purpose.

(16)(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.

(17) "Local Public Health Authority" or "LPHA" means the county government, unless a health district has been formed under ORS 431.414, the county has contracted with a person or agency to act as the public health authority, or the county has relinquished its authority to the state.

(18) "Maximum seating capacity" means the total number of seats available to patrons, including, but not limited to, bar stools, seating at cocktail tables, seats at buddy-bar tables, banquette seating, dining seating, couch space, and floor pillows intended as seating; as well as the total number of patrons a business permits inside the business at the same time.

(19) "Noncommercial tobacco products" means unprocessed tobacco plants or tobacco by-products used for ceremonial or spiritual purposes by American Indians.

(20) "Place of employment" means an enclosed area under the control of a public or private employer, including work areas, employee lounges, vehicles that are operated in the course of an employer's business and that are not operated exclusively by one employee, rest rooms, conference rooms, classrooms, cafeterias, hallways, meeting rooms, elevators and stairways.

Place of employment does not include a private residence unless it is used as a child care facility as defined in ORS 657A.250 or a facility providing adult day care as defined in 410.490.

(21) "Private residence" means a residence or part of a residence that is not operated as a place of business where clients or customers use the premises. A residence that is considered a place of employment or public place is subject to ORS 433.835 through 433.875 during its hours of operation. Only that part of a residence used as a place of business is subject to ORS 433.835 through 433.875.

(22) "Public Health Director" means the director of the Public Health Division of the Oregon Health Authority.

(23) "Public Health Division" means the Public Health Division of the Oregon Health Authority.

(24) "Public place" means an enclosed area open to the public.

(25) "Rooms designated by the owner or entity in charge of a hotel or motel as rooms in which smoking is permitted" means sleeping rooms or suites in that hotel or motel.

(26) "Smoking instrument" means any cigar, cigarette, pipe, or other instrument used to smoke tobacco, marijuana or any other inhalant.

(27) "Smoke shop" means a business that is certified with the Oregon Health Authority as a smoke shop under OAR 333-015-0068.

(28) "Stand-alone business" means a business that is not attached to, does not use or occupy the same space as, is not located within, and does not share a common entryway or area with another business, another place of employment, or residential property.

(29) "Tobacco Prevention and Education Program" means the Tobacco Prevention and Education Program in the Public Health Division of the Oregon Health Authority.

(30) "Wall" means any architectural partition, permanent or temporary, with a height and length greater than its thickness, used to divide or enclose an area or to support another structure. Walls include, but are not limited to, partitions constructed of plastic, mesh or other screening materials, slats, louvered blinds, fabric, or blankets, and partitions with latticing or other open frameworks.

(31) "10 feet" means 10 linear feet, measured in a straight line between the points in question.

Stat. Auth.: ORS 433.855

Stats. Implemented: ORS 433.835