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Oregon Administrative Rules
Department of Human Services, Public Health Division
Chapter 333

DIVISION 15

**IMPLEMENTATION OF THE OREGON CLEAN AIR ACT
-- PROHIBITION OF
TOBACCO SMOKING IN PUBLIC PLACES AND WORKPLACES**

333-015-0030

Definitions

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

(1) "Act" means the Oregon Indoor Clean Air Act as it appears in ORS 433.835 through 433.875 and 433.990(5).

(2) "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 of all other tobacco products in any form that includes, but is not limited to, loose tobacco, pipe tobacco, cigarettes as defined in ORS 323.010, and cigarillos as defined by OAR 333-015-0030(3);

(d) Has been issued and operates under a full on-premises ~~liquor~~ 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 is certified by the assistant to the State Fire Marshal described in ORS 476.060 for the jurisdiction in which the cigar bar is located as adequate to remove the cigar smoke in the cigar bar and vents the smoke from the cigar bar in a manner that prevents the smoke from entering any other establishment; and

(i) Requires all employees to read and sign a form approved and published by the Public Health Division, which explains the dangers of exposure to secondhand smoke.

(3) "Cigarillos" means a smoking device wrapped in tobacco leaf, rather than paper, containing less than three grams of tobacco and measuring less than 100 mm in length.

(4) "DHS" means the Department of Human Services.

(5) "Employer" means any entity or individual who engages an individual to perform work or services in an enclosed area under the control of said employer.

(6) "Enclosed area" means all space between a floor and a ceiling that is enclosed on ~~all~~ three or more sides by solid-permanent or temporary walls or windows, exclusive of doors or passageways, that extend from the floor to the ceiling, ~~including all space therein screened by partitions that do not extend to the ceiling or are not solid, such as "office landscaping" or similar structures.~~

(7) "Entity in charge of a public place" means any person or organization that has responsibility because of ownership, proprietorship, management, or oversight of a place

that is open to the public. An entity in charge of a public place is used to refer to those instances where the person or organization in charge is not an employer.

(8) "Entrance" means any point of entry to premises whereby a person gains access to the interior of enclosed space from the exterior of outdoor space.

(9) "Exit" means any point on a premises whereby a person gains access to the exterior of an enclosed space from the interior of an indoor space.

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

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

(12) "Local Public Health Authority" 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.

(13) "Maximum seating capacity" means the total number of seats available to patrons including bar stools, seating at cocktail tables, seats at buddy-bar tables, banquette seating, and dining seating.

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

(15) "PHD" means the Public Health Division of the Department of Human Services.

(16) "Place of employment" means every enclosed area under the control of a public or private employer that employees frequent during the course of employment that includes, but is not limited to, work areas, employee lounges, rest rooms, conference rooms, classrooms, cafeterias, hallways, and work vehicles that are not operated exclusively by one employee. 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 ORS 410.490.

(17) "Private residence" means a residence or part of a residence that is not used 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 will be subject to ORS 433.835 through 433.875.

(18) "Public place" means any enclosed area open to the public.

(19) "Temporary walls" means walls not intended to be permanent including walls constructed of non-permanent material that includes, but is not limited to, plastic, mesh or other screening materials, slats, louvered blinds, fabric, or blankets.

(20) "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.

(21) "Smoking instrument" means any cigar, cigarette, pipe, or other ~~tobacco~~ smoking equipment.

(22) "Smoke shop" means a business that:

(a) Is primarily engaged in the sale of tobacco with at least 75 percent of gross revenues resulting from tobacco sales in every fiscal year;

(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 on-premises consumption of alcoholic beverages; and

(e) Is a stand-alone business with no other businesses or residential property attached to the premises.

(23) "Wall" means any architectural partition with a height and length greater than its thickness, used to divide or enclose an area or to support another structure.

Stat. Auth.: ORS 433.855

Stats. Implemented: ORS 433.835

333-015-0040

Signs

(1) An employer or entity in charge (EIC), except in those places described in OAR 333-015-0035(6) and (8), shall post signs prohibiting smoking. Signs shall use either the "no smoking" symbol (a cigarette with a diagonal slash through it within a circle) and the words "within 10 feet," or the words "No Smoking within 10 feet," or both. Nothing in these rules shall prevent an employer from increasing the amount of property where smoking is prohibited beyond the 10 foot requirement or from designating the entire premises as smokefree. Signage may be used without specifically including the words "within 10 feet" if the signage specifies some other restriction greater than 10 feet or designates the entire premises as smokefree. Signs shall be posted prominently at each entrance and exit to the place of employment or public place.

(2) In a cigar bar or smoke shop where smoking is allowed under OAR 333-015-0035(8), the employer or EIC shall post signage at each entrance and exit to clearly state that smoking is allowed in all or some of the premises, and that anyone under the age of 21 for cigar bars and under the age of 18 for smoke shops is prohibited from entering the premises.

(3) All signs used to describe whether smoking is prohibited or allowed in a place of employment or public place shall be placed at a height and location easily seen by a person entering the establishment and shall not be obscured in any way.

Stat. Auth.: ORS 433.855

Stats. Implemented: ORS 433.835 through 433.870