



Instructions for Applying for Renewal of Smoke Shop Certification: Requirements for Businesses that Applied Prior to June 30, 2011

The Oregon Indoor Clean Air Act (ICAA) [ORS 433.835-433.875 and 433.990(5)] prohibits smoking in almost all public places and places of employment. Smoking is permitted in businesses that meet certain requirements.

The ICAA requires the Oregon Health Authority (OHA) to establish and enforce a certification system for smoke shops. Smoke shops must be certified by OHA and abide by specific requirements to permit smoking indoors [ORS 433.835 - 433.850 and OAR 333-015-0068]. It is a violation of the law to smoke or allow smoking in a non-certified smoke shop.

UPDATE to ICAA

Please note that on June 20, 2019, Governor Kate Brown signed Senate Bill 29 into law. This law amends the ICAA and changes requirements for smoke shops certified by OHA. SB 29 aligns and clarifies requirements for the three smoke shop categories that are eligible for OHA certification. Specifically, SB 29:

1. Prohibits anyone under the age of 21 from entering the premises of any certified smoke shop, at any time,
2. Makes clear that consumption of alcohol beverages is prohibited on the premises of any certified smoke shop, at any time, and
3. Allows OHA to revoke or refuse to issue or renew a certification to a smoke shop for violations of the ICAA or its associated rules.

SB 29 goes into effect January 1, 2020. Certified smoke shops are responsible for coming into compliance with all related laws and rules by the time the law becomes operative. This includes posting signs that clearly state no one under the age of 21 is allowed on the premises at any time. In addition, smoke shops must post signs stating that consumption of alcohol is prohibited on the premises. For more information, visit www.healthoregon.org/morefreshair.

A certified smoke shop must renew its certification every five years within 30 days of the calendar date on which certification was originally granted. To continue to qualify for smoke shop certification, a business that filed an application with OHA prior to June 30, 2011, must submit this application packet to OHA with documentation demonstrating that the business meets the requirements of OAR 333-015-0068(5)(c), as follows:

- (1) The business:
 - (a) Is primarily engaged in the sale of tobacco products and smoking instruments intended for off-premises consumption or use, and derives at least 75 percent of its gross revenue 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 alcoholic beverages for on-premises consumption; and
- (e) Is a stand-alone business with no other businesses or residential property attached.

(2) At the time of this application, the business met the requirements listed under paragraph (1).

To maintain smoke shop certification, a business must agree to allow OHA to make unannounced inspections of the business to determine compliance with the ICAA and rules [ORS 433.847(8)].

Certified smoke shops must post signs at each entrance and exit clearly stating that smoking is allowed on all or part of the premises, that it is unlawful to sell tobacco products or inhalant delivery systems to anyone under the age of 21 and that anyone under the age of 18 is prohibited from entering the premises [OAR 333-015-0040(5)].

Mail the completed renewal of certification application packet to OHA at the address provided below. All required documentation must be included for OHA to consider the business's renewal application for smoke shop certification. A separate application packet must be submitted for each smoke shop location.

The application packet contains the following parts. Complete the entire application packet and submit all requested materials together. Keep a copy of all application materials for your records.

- 1. OHA Application for Renewal of Smoke Shop Certification**
- 2. Notarized Affidavit**, signed by the owner or manager listed on the OHA Renewal of Smoke Shop Certification Application or another individual listed on the Authorization Form.
- 3. Gross Revenue Documentation**
- 4. Signs**
- 5. Stand-alone Business Documentation from date of original application**
- 6. Current Stand-alone Business Documentation**
- 7. Authorization Form** (*optional*)

Mail a completed hard-copy renewal application packet to:

**Tobacco Prevention and Education Program
Attn: ICAA Renewal of Smoke Shop Certification
Oregon Health Authority, Public Health Division
800 NE Oregon St., Ste. 730
Portland, OR 97232**



Applications will only be accepted by mail. Do not e-mail or fax application materials to OHA.

Application Review and Notification Process [OAR 333-015-0068(6)]

OHA will review application materials within 45 days of receipt to determine whether the application is complete.

If the application is incomplete, OHA will send a letter requesting additional information to the mailing address provided in the application.

Within 15 days of declaring an application complete, OHA will determine whether the business qualifies as a smoke shop that is exempt from the indoor smoking prohibition under the ICAA. OHA will then send a letter to the applicant granting or denying certification.

OHA may deny an application for smoke shop certification and prohibit an applicant from reapplying for up to two years if the applicant provides information to OHA that is false or deliberately misleading.

OHA reserves the right to request additional information after certification to determine the smoke shop's compliance with the ICAA.

Note: Smoke shop certification is limited to the original qualifying location only. If you plan to move your smoke shop, you must notify OHA at least 30 days prior to moving and seek a transfer of certification to the new location before permitting smoking on the premises.



1. OHA Application for Renewal of Smoke Shop Certification

Complete the entire application and submit all requested materials in one packet. The application must be signed and include a current mailing address. Keep a copy of all application materials for your records.

Note: As used in this application packet, “smoke shop” means the establishment seeking smoke shop recertification.

Smoke Shop Name

Smoke Shop Phone

Smoke Shop Street Address

City

Zip code

County

Mailing Address

(if different from Smoke Shop Street Address)

City

State

Zip Code

Email address

Smoke Shop Manager

Manager Phone

Business Name (if different from Smoke Shop Name)

Business Phone (if different)

Business Owner

Business Owner Phone

Primary Contact Person Name and Title

Primary Contact Person Phone

Applicant Name and Title

Applicant Signature

Date



2. Notarized Affidavit

I, _____, am the _____ of _____ and have the knowledge necessary to attest that the business:

(First Name Last Name) (Title)
(Smoke Shop Name)

- Is primarily engaged in the sale of tobacco products and smoking instruments intended for off-premises consumption or use, and derives at least 75 percent of its gross revenue from such sales;
- Prohibits persons under 18 years of age from entering the premises;
- Does not offer video lottery games, social gaming or betting on the premises;
- Does not sell or offer alcoholic beverages for on-premises consumption; and
- Met the above criteria at the time of original smoke shop application.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Printed Name of Affiant

Date

Signature of Affiant

Date

State of _____)

County of _____)

This instrument was acknowledged before me on (date) _____ by
(name of person) _____.

Signature of notarial officer: _____

My commission expires: _____ (seal)



3. Gross Revenue Documentation

Use this form to document and demonstrate that at least 75 percent of the smoke shop’s gross revenue *over the past 90 days* resulted from the sale of tobacco products or smoking instruments intended for off-premises consumption or use.

- In column 1, include all sales categories and make sure they are clearly labeled.
- In column 2, report the gross revenue for each category of product sold.
- Attach additional copies of this form if you need more space.

Smoke Shop Name _____
Smoke Shop Phone

Mailing Address City State Zip Code

Report of Gross Revenue

Enter the time period covered: (mm/dd/yyyy) _____ to _____

<u>COLUMN 1</u> Category of Product Sold	<u>COLUMN 2</u> Category Revenue Total
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
Total gross revenue:	\$

Total revenue from tobacco products and/or smoking instruments: \$ _____

Percentage of **total gross revenue** resulting from tobacco product and/or smoking instrument sales: _____%

4. Signs

Submit evidence, such as photographs, of:

- 1) Signs clearly stating that smoking is allowed on all or part of the premises;
- 2) Signs clearly stating that it is unlawful to sell tobacco products or inhalant delivery systems to anyone under the age of 21;
- 3) Signs prohibiting persons under 18 years of age from entering the smoke shop premises;
- 4) Signs clearly stating that cigarette smoking is prohibited on the premises (in smoke shops where cigarette smoking is not allowed under OAR 333-015-0068(7)(e)), and
- 5) Signs prohibiting smoking of inhalants that are not tobacco products.

Indicate the type of evidence submitted (*e.g., photographs, copies of signs*): _____

5. Current Stand-alone Business

Submit photographs demonstrating that the smoke shop is presently a stand-alone business with no other businesses or residential property attached.

Include photographs of all sides of the building. The photographs must be dated and labeled, and must clearly show from each side that the smoke shop is not attached to any other buildings or enclosed areas. At a minimum, include photographs from the following four sides:

- 1) Front side of the building.
- 2) Back side of the building.
- 3) Right side of the building.
- 4) Left side of the building.



6. Authorization Form *(optional)*

Use this form to list any individuals, other than the manager or the owner listed on form 1 of this application packet, who are authorized to communicate with OHA regarding this business's smoke shop certification. OHA will only accept information and requests on behalf of the smoke shop from the individuals listed here and on the application form. You may add more lines to this form if necessary.

_____	_____
(First Name Last Name)	(Title)
_____	_____
(First Name Last Name)	(Title)
_____	_____
(First Name Last Name)	(Title)
_____	_____
(First Name Last Name)	(Title)

The persons listed above are authorized to communicate with OHA, on behalf of _____ and to take action regarding this business's smoke shop certification. This list may be amended by the business owner at any time.

Printed Name of Owner

Signature of Owner

Date



Application Checklist

Items **1 – 7** must be included in the application packet submitted to OHA. If any materials are missing or incomplete, you will receive a notice of incomplete application. It is the responsibility of the applicant to submit all required and complete materials on time.

- 1. Application for Renewal of Smoke Shop Certification
- 2. Notarized Affidavit
- 3. Gross Revenue Documentation
- 4. Signs Documentation
- 6. Current Stand-alone Business Documentation
- 7. Authorization Form (*optional*)

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