

# Court halts Gov. Brown's flavored nicotine vape sales ban

By Sam Stites  
Oregon Capital Bureau



Gov. Kate Brown

The Oregon Court of Appeals Thursday granted a temporary stay on Oregon Health Authority rules enforcing a 180-day ban on the sale of flavored nicotine and medical marijuana vaping products.

The temporary ban against the sale of recreational flavored marijuana vaping products, regulated by the Oregon Liquor Control Commission, remains in force.

The ruling came in response to two petitions for injunctions filed with the court against Gov. Kate Brown and the Oregon Health Authority seeking judicial review of the ban.

Brown had previously issued an executive order directing the agencies to implement the ban.

Canby attorney J. Ryan Adams filed one of those petitions Oct. 16 on behalf of No Moke Daddy LLC, which operates two e-cigarette shops in downtown Portland under the name Division Vapor.

"We believe the governor overstepped her authority by directing (the OHA and OLCC) to enact this ban," Adams said. "Essentially we asked the court to invalidate the rule."

According to Adams, his client decided to file for the injunction because they were worried about the employment impacts the temporary ban would have on what they consider a booming industry that employs thousands of Oregonians across the state.

Brown's executive order followed a widespread outbreak of acute lung injuries that are being tracked across the country and linked to the use of both marijuana and nicotine vape products. As of last week, more than 1,300 cases had been reported with 26 deaths, two of those happening in Oregon. Last week the OLCC approved temporary rules that were ordered to take effect Oct. 15 that would take all flavored vape products off the shelves of approximately 4,000 retailers across the state.

On their website, Division Vapor had posted a message saying they would be effectively out of business as of Oct. 14, ahead of the ban that came into place the following day.

"This is their entire business," Adams said. "One of the requirements to enact an emergency rule is the agency has to state a need for the rule and how the rule meets that need. The OHA stated the need for the rule was based on the governor's executive order, but nowhere in the rule did it say the rule meets the need."

That was the basis for us asking the court to stay the rule."

Adams said that his client is excited they will get to remain in business.

"The employees of the shop are the biggest winners here today," he said.

The ruling will essentially force the state via the Oregon Health Authority and Gov. Brown's office to prove that the rule hasn't violated state statute in exceeding their boundaries while the court reviews the rule.

Responding to the ruling Thursday, Charles Boyle, Brown's press secretary, said in a statement that "the court's decision to enter a temporary stay today is unfortunate due to the ongoing public health threat posed by vaping-related illness."

Boyle maintains that, in light of the nationwide outbreak of vaping-related injuries, a temporary ban under the state's emergency rulemaking process is the best path forward available to Gov. Brown and state agencies under Oregon law to protect the public health of Oregonians.

"Gov. Brown will continue to work with the Vaping Public Health Workgroup, state agencies, stakeholders, and the Legislature to find long-term solutions that will protect the public health from vaping-related illness," he said. "Gov. Brown continues to urge Oregonians to heed the public health warning of the Oregon Health Authority and to stop vaping immediately."

# ODOT, TSA warn travelers 'Real ID' compliance could cause massive headache

By Sam Stites  
Oregon Capital Bureau



Pamplin Media Group file photo

**TSA agents are warning Oregon travelers that they will have to have a Real ID-compliant driver's license by October 2020 or they won't be able to fly.**

If you've flown from Portland International Airport within the past couple of weeks you've probably received a warning from Transportation Security Administration agents while waiting to get through security: Beginning Oct. 1, 2020, they'll no longer accept state-issued identification that doesn't comply with "Real ID" standards.

That news surprised one Oregonian catching an early morning flight to Chicago this month. She explained to the TSA agent that she knew about the change and had obtained a new Oregon driver's license the previous week. So, she told him, she's ready for the new law.

Except, the TSA agent told her, she's not.

That's because Oregon's Driver and Motor Vehicle Division offices won't issue licenses that comply with the Real ID standards until July 2020 (the new licenses will have a star in the upper right corner).

"So I have to get a new license in July?" the woman asked. The agent asked: Does she have a valid passport? She does. So, the agent told her that document will work.

The woman was relieved, but wondered aloud, "How did this happen? It makes no sense."

### Incompatible computers

The saga began when Congress passed the Real ID Act of 2005. On the recommendation of the 9/11 Commission, federal lawmakers created a set of standards

for the issuance of sources of identification like driver's licenses.

To understand why Oregon is in this predicament, you have to go back to 2009 when the Legislature passed Senate Bill 536, legislation that balked at the Real ID Act, calling it out as an unfunded mandate. Oregon lawmakers were unhappy that the federal government didn't outline how it would reimburse the state for updating driver information systems. Oregon lawmakers also felt a new system would provide few security protections, leaving identification systems open to insider fraud, counterfeit documentation and database failures.

The bill passed with little opposition, and the federal government pushed back the deadline as Oregon and nearly almost all other states refused to comply. During the next decade, the federal Department of Homeland Security began rolling out the law in phases, first at its own Washington, D.C., headquar-

ters, then at nuclear facilities across the country. Air travel requirements were rolled out beginning Jan. 22, 2018.

Ahead of the deadline, most states began changing their systems, which included implementation of massive new data servers to keep identification information secure. The system was used to instantly verify documentation, such as birth certificates, passports, Social Security numbers and residential addresses.

Driver and Motor Vehicles Services spokesman David House said Real ID compliance continued to come up in Oregon's legislative process each year. One obstacle to the state's participation was technology. ODOT's system was running on millions of lines of primitive code inside an old mainframe computer. House said it could have been updated to handle the new information required for Real ID compliance, but the half-century-old system "is simply incompatible with modern technology."

## COPS AND COURTS

*Arrests and citations in the Blue Mountain Eagle are taken from the logs of law enforcement agencies. Every effort is made to report the court disposition of arrest cases.*

### Grant County Sheriff

The Grant County Sheriff's Office reported the following for the week of Oct. 16:

- Concealed handgun licenses: 6
- Average inmates: 16
- Bookings: 10
- Releases: 16
- Arrests: 3
- Citations: 3
- Fingerprints: 19
- Civil papers: 2
- Warrants processed: 6
- Assistance/Welfare check: 0
- Search and Rescue: 0

Oct. 14: Alexandria S. Peterson, 23, Mt. Vernon, warned for failure to display plates and cited for speeding, 51/35 zone.

Oct. 16: Ira Franklin, 43, of John Day was cited for keeping a dog as a nuisance.

### Justice Court

Violation of basic rule: Juvenile, 16, Mt. Vernon, Sept. 26, 92/55 zone, fined \$340; John W. Harris, 52, Everett, Washington, Sept.

23, 75/55 zone, fined \$140; Shaela D. England, 29, Redmond, Sept. 16, 73/55 zone, fined \$140; William E. Sanders, 53, Scio, Sept. 24, 68/55 zone, fined \$165; Jason B. Berry, 45, Milton-Freewater, Oct. 4, 75/55 zone, fined \$165; Herbert M. Carter, 48, Seneca, Oct. 3, 70/55 zone, fined \$140.

Violation of speed: John A. Fenton, 52, Pendleton, Sept. 23, 77/65 zone, fined \$225; Robert J. Young, 61, Mansfield, Ohio, Sept. 30, 34/25 zone, fined \$115; James L. Hiatt, 70, Adel, Sept. 23, 75/65 zone, fined \$160; Vicente A. Flores, 28, Salem, Sept. 24, 75/65 zone, fined \$165; Shane R. Combs, 39, John Day, Sept. 23, 75/65 zone, fined \$140.

Driving while suspended: Andrew S. Ballou, 25, Mt. Vernon, Sept. 30, fined \$440.

Failure to drive within lane: Lisa F. Miller, 57, Mt. Vernon, Sept. 2, fined \$225.

Operating without required lighting: Timothy G. Lovell, 54, Haines, Sept. 11, fined \$165.

Failure to show out-of-state plates: Nicholas A. Albers, 24, Portland, Oct. 4, fined \$165.

Driving uninsured: Andrew S. Ballou, 25, Mt.

Vernon, Sept. 30, fined \$265. Steven M. Warrington, 30, John Day, pleaded guilty Oct. 9 to two counts of theft. He was sentenced to 20 consecutive days in jail, 50 hours of community service and 36 months of probation. He was ordered to pay a total of \$700 in fines for both counts.

### Oregon State Police

Oct. 14: A Fish and Wildlife sergeant witnessed a near collision at the intersection of Highway 395N and Highway 26. The sergeant stopped the offending driver at Clyde Holliday State Park, who exhibited indicators of alcohol impairment. The driver performed field sobriety tests and was arrested. He was transported to the Grant County Jail, where he provided a breath sample which resulted in .11% blood alcohol level. He was lodged in jail.

Oct. 19: Responded to a crash near milepost 6.5 on Highway 395. A cattle truck pulling an unloaded trailer, traveling south, came around a corner just as a large pine tree fell down from the east side of the highway blocking both lanes. The truck

hit the tree, which became lodged under the front and rear axle, lifting the truck off the ground. The truck came to an uncontrolled rest on the west shoulder of the highway, partially blocking the southbound lane. The driver was uninjured. Oregon Department of Transportation responded with a snow plow and pushed the remainder of the tree out of the highway.

### Dispatch

John Day dispatch worked 143 calls during the work of Oct. 14-20, including:

#### • John Day Police Department

Oct. 14: Dispatched with John Day fire to a noninjury crash on Highway 26.

Oct. 14: Received a report of criminal mischief on Southeast Hillcrest road.

Oct. 14: Cited Kyle L. Cook, 48, for an unlawful turn.

Oct. 15: Responded to a report of harassment and arrested David R. Kern, 69, John Day.

Oct. 17: Arrested David Peck, Burns, on a Harney County parole violation.

Oct. 17: Received a

report of a suspicious person on West Main Street.

Oct. 18: Assisted Harney County with the return of personal belongings to an arrestee.

Oct. 18: Assisted with finding the owners of an injured animal on Canyon Boulevard.

Oct. 19: Arrested Michael W. Roberts, 41, John Day, on a parole violation.

#### • Oregon State Police

Oct. 14: Received information of a buck with cords in its antlers on Meadowlark Lane.

Oct. 16: Received a report of a bus hitting a cow on Highway 395N. A van hit a second cow on the same highway.

Oct. 16: Received a report of a couch cushion on Highway 26.

Oct. 16: Received a report of criminal mischief of cows on Highway 26.

Oct. 20: A request was made to provide wildlife salvage information to a resident in Prairie City.

#### • Grant County Sheriff's Office

Oct. 14: Responded to a report of an intoxicated and unwanted subject on Ingle Street in Mt. Vernon.

Oct. 15: Received a report of theft in Prairie City.

Oct. 16: Received a report of a lost animal on Corral Gulch.

Oct. 18: Advised of a request for assistance from adult protective services.

Oct. 14: Responded to an 83-year-old woman who had fallen on Trafton Lane.

Oct. 15: Paged for a 65-year-old man with abdominal swelling.

Oct. 17: Along with Long Creek ambulance, dispatched for a man who was unconscious on West Main Street.

Oct. 19: Paged for a man with difficulty breathing and tightness in the chest on Canyon Boulevard.

#### • United States Forest Service

Oct. 18: Responded to a fire on Dixie Mountain.

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**Intro to Music:** Tuesdays, starting October 29, 6:30 - 7:00 PM. Group introduction to music lessons with Leanna Perkins.

**Friday Art Club:** Fridays, 8:00 AM - 5:15 PM. A Friday-only arts program open to children ages 5-12. Your child will have exposure to music, arts, crafts, and more!

**Oil Painting Jump Start:** Thursday, October 24, 6:30 - 8:00 PM. Learn the best supplies to purchase and how to set up a studio.

**Knit a Hat with Magic Loop:** Saturdays, starting November 9, 10:30 AM - 12:00 PM. Learn to knit while creating something beautiful and warm.

**Beginning Traditional Rug Hooking:** Saturday, November 16, 10:00 AM - 3:00 PM. Learn the basics of traditional rug hooking (P.S. It's different than latch hooking).

**Arts After School:** Ongoing, Mon-Thurs 3:30 - 5:45 PM, and Fri 8:00 AM - 5:45 PM. Follows school calendar. Your child will have exposure to music, arts, crafts, and more!

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### Grant County HEALTH Department

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**Monday - Thursday 7am - 6pm**

**Friday 8am - 5pm**

**Mendy Sharpe FNP**

*Appointments available*

Call and schedule your appointment today!

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