

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 COMMITTEE SUBSTITUTE  
4 FOR  
5 HOUSE BILL NO. 1432

By: Loring

6  
7 COMMITTEE SUBSTITUTE

8 An Act relating to tobacco and vapor products;  
9 amending 37 O.S. 2011, Section 600.4, as renumbered  
10 by Section 28, Chapter 404, O.S.L. 2013, and as  
11 amended by Section 5, Chapter 162, O.S.L. 2014 (10A  
12 O.S. Supp. 2019, Section 2-8-224), which relates to  
13 purchase, receipt or possession of tobacco or vapor  
14 products by minors; amending 21 O.S. 2011, Sections  
15 1241 and 1242, as amended by Sections 1 and 2,  
16 Chapter 162, O.S.L. 2014 (21 O.S. Supp. 2019,  
17 Sections 1241 and 1242), which relate to furnishing  
18 of tobacco or vapor products to minors; amending 37  
19 O.S. 2011, Sections 600.2, 600.3, 600.5, 600.6,  
20 600.7, 600.8, 600.10A, 600.11 and 600.13, as amended  
21 by Sections 3, 4, 6, 7, 8, 9, 11, 12 and 13, Chapter  
22 162, O.S.L. 2014, and as renumbered by Sections 171,  
23 172, 173, 174, 175, 176, 179, 180 and 184, Chapter  
24 366, O.S.L. 2016 (63 O.S. Supp. 2019, Sections 1-  
229.12, 1-229.13, 1-229.15, 1-229.16, 1-229.17, 1-  
229.18, 1-229.21, 1-229.22 and 1-229.26), which  
relate to prevention of youth access to tobacco or  
vapor products; amending Section 6, Chapter 369,  
O.S.L. 2017 (63 O.S. Supp. 2019, Section 1-1530),  
which relates to development of strategies to prevent  
tobacco use by minors; increasing legal age limits  
related to purchase, receipt, possession, furnishing,  
sale or distribution of tobacco or vapor products;  
conforming provisions related to employees, proof of  
age, signage, employee notification, vending  
machines, display of tobacco or vapor products, the  
Alcoholic Beverage Laws Enforcement Commission and  
tobacco use prevention strategies; broadening  
strategies to include vapor products; updating

1 statutory reference; clarifying language; and  
2 declaring an emergency.

3  
4  
5 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

6 SECTION 1. AMENDATORY 37 O.S. 2011, Section 600.4, as  
7 renumbered by Section 28, Chapter 404, O.S.L. 2013, and as amended  
8 by Section 5, Chapter 162, O.S.L. 2014 (10A O.S. Supp. 2019, Section  
9 2-8-224), is amended to read as follows:

10 Section 2-8-224. A. It is unlawful for a person who is under  
11 ~~eighteen (18)~~ twenty-one (21) years of age to purchase, receive, or  
12 have in his or her possession a tobacco product, or vapor product,  
13 or to present or offer to any person any purported proof of age  
14 which is false or fraudulent, for the purpose of purchasing or  
15 receiving any tobacco product or vapor product. It shall not be  
16 unlawful for an employee under ~~eighteen (18)~~ twenty-one (21) years  
17 of age to handle tobacco products or vapor products when required in  
18 the performance of the employee's duties.

19 B. When a person violates subsection A of this section, the  
20 Alcoholic Beverage Laws Enforcement (ABLE) Commission shall impose  
21 an administrative fine of:

22 1. Not to exceed One Hundred Dollars (\$100.00) for a first  
23 offense; and  
24

1           2. Not to exceed Two Hundred Dollars (\$200.00) for a second or  
2 subsequent offense within a one-year period following the first  
3 offense.

4           Upon failure of the individual to pay the administrative fine  
5 within ninety (90) days of the day of the fine, the ABLE Commission  
6 shall notify the Department of Public Safety, and the Department  
7 shall suspend or not issue a driver license to the individual until  
8 proof of payment has been furnished to the Department of Public  
9 Safety.

10          C. The ABLE Commission shall establish rules to provide for  
11 notification to a parent or guardian of any minor cited for a  
12 violation of this section.

13          D. Cities and towns may enact and municipal police officers may  
14 enforce ordinances prohibiting and penalizing conduct under  
15 provisions of this section, but the provisions of such ordinances  
16 shall be the same as provided for in this section, and the  
17 enforcement provisions under such ordinances shall not be more  
18 stringent than those of this section.

19          E. For the purposes of this section, the term "vapor products"  
20 shall have the same meaning as provided in the Prevention of Youth  
21 Access to Tobacco Act.

22          SECTION 2.           AMENDATORY           21 O.S. 2011, Section 1241, as  
23 amended by Section 1, Chapter 162, O.S.L. 2014 (21 O.S. Supp. 2019,  
24 Section 1241), is amended to read as follows:

1       Section 1241. Any person who shall furnish to any ~~minor~~ person  
2 under the age of twenty-one (21) by gift, sale or otherwise any  
3 cigarettes, cigarette papers, cigars, bidis, snuff, chewing tobacco,  
4 or any other form of tobacco product, or vapor products shall be  
5 guilty of a misdemeanor and, upon conviction, shall be punished by a  
6 fine in the amount of not less than Twenty-five Dollars (\$25.00) nor  
7 more than Two Hundred Dollars (\$200.00) and by imprisonment in the  
8 county jail for a term of not less than ten (10) days nor more than  
9 ninety (90) days for each offense. For the purposes of this  
10 section, the term "vapor product" shall have the same meaning as  
11 provided in the Prevention of Youth Access to Tobacco Act.

12       SECTION 3.       AMENDATORY       21 O.S. 2011, Section 1242, as  
13 amended by Section 2, Chapter 162, O.S.L. 2014 (21 O.S. Supp. 2019,  
14 Section 1242), is amended to read as follows:

15       Section 1242. Any ~~minor~~ person under the age of twenty-one (21)  
16 being in possession of cigarettes, cigarette papers, cigars, snuff,  
17 chewing tobacco, or any other form of tobacco product, or vapor  
18 products and being by any police officer, constable, juvenile court  
19 officer, truant officer, or teacher in any school, asked where and  
20 from whom such cigarettes, cigarette papers, cigars, snuff, chewing  
21 tobacco, or any other form of tobacco product, or vapor products  
22 were obtained, who shall refuse to furnish such information, shall  
23 be guilty of a misdemeanor and upon conviction thereof before the  
24 district court, or any judge of the district court, such minor being

1 of the age of sixteen (16) years or upwards shall be sentenced to  
2 pay a fine not exceeding Five Dollars (\$5.00) or to undergo an  
3 imprisonment in the jail of the proper county not exceeding five (5)  
4 days, or both; if such minor shall be under the age of sixteen (16)  
5 years, he or she shall be certified by such magistrate or justice to  
6 the juvenile court of the county for such action as the court shall  
7 deem proper. For the purposes of this section, the term "vapor  
8 product" shall have the same meaning as provided in the Prevention  
9 of Youth Access to Tobacco Act.

10 SECTION 4. AMENDATORY 37 O.S. 2011, Section 600.2, as  
11 amended by Section 3, Chapter 162, O.S.L. 2014, and as renumbered by  
12 Section 171, Chapter 366, O.S.L. 2016 (63 O.S. Supp. 2019, Section  
13 1-229.12), is amended to read as follows:

14 Section 1-229.12 As used in the Prevention of Youth Access to  
15 Tobacco Act:

16 1. "Person" means any individual, firm, fiduciary, partnership,  
17 corporation, trust, or association, however formed;

18 2. "Proof of age" means a driver license, license for  
19 identification only, or other generally accepted means of  
20 identification that describes the individual as ~~eighteen (18)~~  
21 twenty-one (21) years of age or older and contains a photograph or  
22 other likeness of the individual and appears on its face to be  
23 valid;

24

1       3. "Sample" means a tobacco product or vapor product  
2 distributed to members of the public at no cost for the purpose of  
3 promoting the product;

4       4. "Sampling" means the distribution of samples to members of  
5 the public in a public place;

6       5. "Tobacco product" means any product that contains tobacco  
7 and is intended for human consumption;

8       6. "Transaction scan" means the process by which a seller  
9 checks, by means of a transaction scan device, the validity of a  
10 driver license or other government-issued photo identification;

11       7. "Transaction scan device" means any commercial device or  
12 combination of devices used at a point of sale or entry that is  
13 capable of deciphering in an electronically readable format the  
14 information encoded on the magnetic strip or bar code of a driver  
15 license or other government-issued photo identification; and

16       8. "Vapor product" shall mean noncombustible products, that may  
17 or may not contain nicotine, that employ a mechanical heating  
18 element, battery, electronic circuit, or other mechanism, regardless  
19 of shape or size, that can be used to produce a vapor in a solution  
20 or other form. "Vapor products" shall include any vapor cartridge  
21 or other container with or without nicotine or other form that is  
22 intended to be used with an electronic cigarette, electronic cigar,  
23 electronic cigarillo, electronic pipe, or similar product or device  
24 and any vapor cartridge or other container of a solution, that may

1 or may not contain nicotine, that is intended to be used with or in  
2 an electronic cigarette, electronic cigar, electronic cigarillo or  
3 electronic device. "Vapor products" do not include any products  
4 regulated by the United States Food and Drug Administration under  
5 Chapter V of the Food, Drug, and Cosmetic Act.

6 SECTION 5. AMENDATORY 37 O.S. 2011, Section 600.3, as  
7 amended by Section 4, Chapter 162, O.S.L. 2014, and as renumbered by  
8 Section 172, Chapter 366, O.S.L. 2016 (63 O.S. Supp. 2019, Section  
9 1-229.13), is amended to read as follows:

10 Section 1-229.13 A. It is unlawful for any person to sell,  
11 give or furnish in any manner any tobacco product or vapor product  
12 to another person who is under ~~eighteen (18)~~ twenty-one (21) years  
13 of age, or to purchase in any manner a tobacco product or vapor  
14 product on behalf of any such person. It shall not be unlawful for  
15 an employee under ~~eighteen (18)~~ twenty-one (21) years of age to  
16 handle tobacco products or vapor products when required in the  
17 performance of the employee's duties.

18 B. A person engaged in the sale or distribution of tobacco  
19 products or vapor products shall demand proof of age from a  
20 prospective purchaser or recipient if an ordinary person would  
21 conclude on the basis of appearance that the prospective purchaser  
22 may be under ~~eighteen (18)~~ twenty-one (21) years of age.

23 If an individual engaged in the sale or distribution of tobacco  
24 products or vapor products has demanded proof of age from a

1 prospective purchaser or recipient who is not under ~~eighteen (18)~~  
2 twenty-one (21) years of age, the failure to subsequently require  
3 proof of age shall not constitute a violation of this subsection.

4 C. 1. When a person violates subsection A or B of this  
5 section, the Alcoholic Beverage Laws Enforcement (ABLE) Commission  
6 shall impose an administrative fine of:

7 a. not more than One Hundred Dollars (\$100.00) for the  
8 first offense,

9 b. not more than Two Hundred Dollars (\$200.00) for the  
10 second offense within a two-year period following the  
11 first offense,

12 c. not more than Three Hundred Dollars (\$300.00) for a  
13 third offense within a two-year period following the  
14 first offense. In addition to any other penalty, the  
15 store's license to sell tobacco products or the  
16 store's sales tax permit for a store that is  
17 predominantly engaged in the sale of vapor products in  
18 which the sale of other products is merely incidental  
19 may be suspended for a period not exceeding thirty  
20 (30) days, or

21 d. not more than Three Hundred Dollars (\$300.00) for a  
22 fourth or subsequent offense within a two-year period  
23 following the first offense. In addition to any other  
24 penalty, the store's license to sell tobacco products

1 or the store's sales tax permit for a store that is  
2 predominantly engaged in the sale of vapor products in  
3 which the sale of other products is merely incidental  
4 may be suspended for a period not exceeding sixty (60)  
5 days.

6 2. When it has been determined that a penalty shall include a  
7 license or permit suspension, the ABLE Commission shall notify the  
8 Oklahoma Tax Commission, and the Tax Commission shall suspend the  
9 store's license to sell tobacco products or the store's sales tax  
10 permit for a store that is predominantly engaged in the sale of  
11 vapor products in which the sale of other products is merely  
12 incidental at the location where the offense occurred for the period  
13 of time prescribed by the ABLE Commission.

14 3. Proof that the defendant demanded, was shown, and reasonably  
15 relied upon proof of age shall be a defense to any action brought  
16 pursuant to this section. A person cited for violating this section  
17 shall be deemed to have reasonably relied upon proof of age, and  
18 such person shall not be found guilty of the violation if such  
19 person proves that:

20 a. the individual who purchased or received the tobacco  
21 product or vapor product presented a driver license or  
22 other government-issued photo identification  
23 purporting to establish that such individual was  
24

1           ~~eighteen (18)~~ twenty-one (21) years of age or older,  
2           or

3           b.    the person cited for the violation confirmed the  
4           validity of the driver license or other government-  
5           issued photo identification presented by such  
6           individual by performing a transaction scan by means  
7           of a transaction scan device.

8           Provided, that this defense shall not relieve from liability any  
9           person cited for a violation of this section if the person failed to  
10          exercise reasonable diligence to determine whether the physical  
11          description and picture appearing on the driver license or other  
12          government-issued photo identification was that of the individual  
13          who presented it. The availability of the defense described in this  
14          subsection does not affect the availability of any other defense  
15          under any other provision of law.

16          D.   If the sale is made by an employee of the owner of a store  
17          at which tobacco products or vapor products are sold at retail, the  
18          employee shall be guilty of the violation and shall be subject to  
19          the fine. Each violation by any employee of an owner of a store  
20          licensed to sell tobacco products or permitted to sell vapor  
21          products shall be deemed a violation against the owner for purposes  
22          of a license suspension pursuant to subsection C of this section.  
23          Each violation by an employee of a store predominantly engaged in  
24          the sale of vapor products in which the sale of other products is

1 merely incidental shall be deemed a violation against the owner for  
2 purposes of a sales tax permit suspension pursuant to the provisions  
3 of subsection C of this section. An owner of a store licensed to  
4 sell tobacco products or permitted to sell vapor products shall not  
5 be deemed in violation of the provisions of the Prevention of Youth  
6 Access to Tobacco Act for any acts constituting a violation by any  
7 person, when the violation occurs prior to actual employment of the  
8 person by the store owner or the violation occurs at a location  
9 other than the owner's retail store. For purposes of determining  
10 the liability of a person controlling franchises or business  
11 operations in multiple locations, for any violations of subsection A  
12 or B of this section, each individual franchise or business location  
13 shall be deemed a separate entity.

14 E. On or before December 15, 1997, the ABLE Commission shall  
15 adopt rules establishing a method of notification of storeowners  
16 when ~~one of their employees~~ an employee of such storeowner has been  
17 determined to be in violation of this section by the ABLE Commission  
18 or convicted of a violation by a municipality.

19 F. 1. Upon failure of the employee to pay the administrative  
20 fine within ninety (90) days of the day of the assessment of such  
21 fine, the ABLE Commission shall notify the Department of Public  
22 Safety, and the Department shall suspend or not issue a driver  
23 license to the employee until proof of payment has been furnished to  
24 the Department of Public Safety.

1           2. Upon failure of a storeowner to pay the administrative fine  
2 within ninety (90) days of the assessment of the fine, the ABLE  
3 Commission shall notify the Tax Commission, and the Tax Commission  
4 shall suspend the store's license to sell tobacco products or the  
5 store's sales tax permit for a store that is predominantly engaged  
6 in the sale of vapor products in which the sale of other products is  
7 merely incidental until proof of payment has been furnished to the  
8 Oklahoma Tax Commission.

9           G. Cities and towns may enact and municipal police officers may  
10 enforce ordinances prohibiting and penalizing conduct under  
11 provisions of this section, but the provisions of municipal  
12 ordinances shall be the same as provided for in this section, and  
13 the penalty provisions under such ordinances shall not be more  
14 stringent than those of this section.

15           H. County sheriffs may enforce the provisions of the Prevention  
16 of Youth Access to Tobacco Act.

17           SECTION 6.           AMENDATORY           37 O.S. 2011, Section 600.5, as  
18 amended by Section 6, Chapter 162, O.S.L. 2014, and as renumbered by  
19 Section 173, Chapter 366, O.S.L. 2016 (63 O.S. Supp. 2019, Section  
20 1-229.15), is amended to read as follows:

21           Section 1-229.15 A. Every person who sells or displays tobacco  
22 products or vapor products at retail shall post conspicuously and  
23 keep so posted at the place of business a sign, as specified by the  
24 Alcoholic Beverage Laws Enforcement (ABLE) Commission, stating the

1 following: "IT'S THE LAW. WE DO NOT SELL TOBACCO PRODUCTS OR VAPOR  
2 PRODUCTS TO PERSONS UNDER ~~18~~ 21 YEARS OF AGE". The sign shall also  
3 provide the toll-free number operated by the Alcoholic Beverage Laws  
4 Enforcement (ABLE) Commission for the purpose of reporting  
5 violations of the Prevention of Youth Access to Tobacco Act.

6 B. When a person violates subsection A of this section, the  
7 Alcoholic Beverage Laws Enforcement (ABLE) Commission shall impose  
8 an administrative fine of not more than Fifty Dollars (\$50.00) for  
9 each day a violation occurs. Each day a violation is continuing  
10 shall constitute a separate offense. The notice required by  
11 subsection A of this section shall be the only notice required to be  
12 posted or maintained in any store that sells tobacco products or  
13 vapor products at retail.

14 SECTION 7. AMENDATORY 37 O.S. 2011, Section 600.6, as  
15 amended by Section 7, Chapter 162, O.S.L. 2014, and as renumbered by  
16 Section 174, Chapter 366, O.S.L. 2016 (63 O.S. Supp. 2019, Section  
17 1-229.16), is amended to read as follows:

18 Section 1-229.16 A. Every person engaged in the business of  
19 selling tobacco products or vapor products at retail shall notify  
20 each individual employed by that person as a retail sales clerk that  
21 state law:

22 1. Prohibits the sale or distribution of tobacco products or  
23 vapor products to any person under ~~eighteen (18)~~ twenty-one (21)  
24 years of age and the purchase or receipt of tobacco products or

1 vapor products by any person under ~~eighteen (18)~~ twenty-one (21)  
2 years of age; and

3 2. Requires that proof of age be demanded from a prospective  
4 purchaser or recipient if an ordinary person would conclude on the  
5 basis of appearance that the prospective purchaser or recipient may  
6 be under ~~eighteen (18)~~ twenty-one (21) years of age.

7 B. This notice shall be provided before the individual  
8 commences work as a retail sales clerk. The individual shall  
9 signify that he or she has received the notice required by this  
10 section by signing a form stating as follows:

11 "I understand that state law prohibits the sale or distribution of  
12 tobacco products or vapor products to persons under ~~eighteen (18)~~  
13 twenty-one (21) years of age and out-of-package sales, and requires  
14 proof of age of purchaser or recipient if an ordinary person would  
15 conclude on the basis of appearance that the prospective purchaser  
16 or recipient may be under ~~eighteen (18)~~ twenty-one (21) years of  
17 age. I promise, as a condition of my employment, to obey the law.  
18 I understand that violations by me may be punishable by fines,  
19 suspension or nonissuance of my driver license. In addition, I  
20 understand that violations by me may subject the storeowner to fines  
21 or license or permit suspension."

22 SECTION 8. AMENDATORY 37 O.S. 2011, Section 600.7, as  
23 amended by Section 8, Chapter 162, O.S.L. 2014, and as renumbered by  
24

1 Section 175, Chapter 366, O.S.L. 2016 (63 O.S. Supp. 2019, Section  
2 1-229.17), is amended to read as follows:

3 Section 1-229.17 It shall be unlawful for any person to sell  
4 tobacco products or vapor products through a vending machine unless  
5 the vending machine is located:

6 1. In areas of factories, businesses, offices or other places  
7 that are not open to the public; and

8 2. In places that are open to the public, but to which persons  
9 under ~~eighteen (18)~~ twenty-one (21) years of age are not admitted.

10 SECTION 9. AMENDATORY 37 O.S. 2011, Section 600.8, as  
11 amended by Section 9, Chapter 162, O.S.L. 2014, and as renumbered by  
12 Section 176, Chapter 366, O.S.L. 2016 (63 O.S. Supp. 2019, Section  
13 1-229.18), is amended to read as follows:

14 Section 1-229.18 A. It shall be unlawful for any person or  
15 retailer to distribute tobacco products, vapor products or product  
16 samples to any person under ~~eighteen (18)~~ twenty-one (21) years of  
17 age.

18 B. No person shall distribute tobacco products, vapor products  
19 or product samples in or on any public street, sidewalk, or park  
20 that is within three hundred (300) feet of any playground, school,  
21 or other facility when the facility is being used primarily by  
22 persons under ~~eighteen (18)~~ twenty-one (21) years of age.

23  
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1 C. When a person violates any provision of subsection A or B of  
2 this section, the Alcoholic Beverage Laws Enforcement (ABLE)  
3 Commission shall impose an administrative fine of:

4 1. Not more than One Hundred Dollars (\$100.00) for the first  
5 offense;

6 2. Not more than Two Hundred Dollars (\$200.00) for the second  
7 offense; and

8 3. Not more than Three Hundred Dollars (\$300.00) for a third or  
9 subsequent offense.

10 D. Upon failure of any person to pay an administrative fine  
11 within ninety (90) days of the assessment of the fine, the ABLE  
12 Commission shall notify the Department of Public Safety, and the  
13 Department shall suspend or not issue a driver license to the person  
14 until proof of payment has been furnished to the Department of  
15 Public Safety.

16 E. Cities and towns may enact and municipal police officers may  
17 enforce ordinances prohibiting and penalizing conduct under  
18 provisions of this section, but the provisions of municipal  
19 ordinances shall be the same as provided for in this section, and  
20 the penalty provisions under such ordinances shall not be more  
21 stringent than those of this section.

22 SECTION 10. AMENDATORY 37 O.S. 2011, Section 600.10A, as  
23 amended by Section 11, Chapter 162, O.S.L. 2014, and as renumbered  
24

1 by Section 179, Chapter 366, O.S.L. 2016 (63 O.S. Supp. 2019,  
2 Section 1-229.21), is amended to read as follows:

3 Section 1-229.21 A. It is unlawful for any person or retail  
4 store to display or offer for sale tobacco products or vapor  
5 products in any manner that allows public access to the tobacco  
6 products or vapor products without assistance from the person  
7 displaying the tobacco products or vapor products or an employee or  
8 the owner of the store. The provisions of this subsection shall not  
9 apply to retail stores which do not admit into the store persons  
10 under ~~eighteen (18)~~ twenty-one (21) years of age.

11 B. When a person violates subsection A of this section, the  
12 Alcoholic Beverage Laws Enforcement (ABLE) Commission shall impose  
13 an administrative fine of not more than Two Hundred Dollars  
14 (\$200.00) for each offense.

15 C. Cities and towns may enact and municipal police officers may  
16 enforce ordinances prohibiting and penalizing conduct under  
17 provisions of this section, but the provisions of municipal  
18 ordinances shall be the same as provided for in this section, and  
19 the penalty provisions under such ordinances shall not be more  
20 stringent than those of this section.

21 SECTION 11. AMENDATORY 37 O.S. 2011, Section 600.11, as  
22 amended by Section 12, Chapter 162, O.S.L. 2014, and as renumbered  
23 by Section 180, Chapter 366, O.S.L. 2016 (63 O.S. Supp. 2019,  
24 Section 1-229.22), is amended to read as follows:

1 Section 1-229.22 A. The Alcoholic Beverage Laws Enforcement  
2 (ABLE) Commission is authorized and empowered to enforce the  
3 provisions of ~~Sections 600.1~~ Section 1-229.11 et seq. of this title.  
4 The ABLE Commission shall enforce those provisions in a manner that  
5 can reasonably be expected to reduce the extent to which tobacco  
6 products or vapor products are sold or distributed to persons under  
7 ~~eighteen (18)~~ twenty-one (21) years of age.

8 B. The ABLE Commission may consider mitigating or aggravating  
9 circumstances involved with the violation of the Prevention of Youth  
10 Access to Tobacco Act when assessing penalties.

11 C. Any conviction for a violation of a municipal ordinance  
12 authorized by the Prevention of Youth Access to Tobacco Act and any  
13 compliance checks by a municipal police officer or a county sheriff  
14 pursuant to subsection E of this section shall be reported in  
15 writing to the ABLE Commission within thirty (30) days of such  
16 conviction or compliance check. Such reports shall be compiled in  
17 the manner prescribed by the ABLE Commission.

18 D. For the purpose of determining second or subsequent  
19 violations, both the offenses penalized by the ABLE Commission as  
20 administrative fines and the offenses penalized by municipalities  
21 and towns and reported to the ABLE Commission, shall be considered  
22 together in such determination.

23 E. Persons under ~~eighteen (18)~~ twenty-one (21) years of age may  
24 be enlisted by the ABLE Commission, a municipality or town, or a

1 county to assist in compliance checks and enforcement; provided,  
2 such persons may be used to test compliance only if written parental  
3 consent has been provided and the testing is conducted under the  
4 direct supervision of the ABLE Commission or conducted by another  
5 law enforcement agency if such agency has given written notice to  
6 the ABLE Commission in the manner prescribed by the ABLE Commission.  
7 Municipalities which have enacted municipal ordinances in accordance  
8 with the Prevention of Youth Access to Tobacco Act may conduct,  
9 pursuant to rules of the ABLE Commission, compliance checks without  
10 prior notification to the ABLE Commission and shall be exempt from  
11 the written notice requirement in this subsection. This subsection  
12 shall not apply to the use of persons under ~~eighteen (18)~~ twenty-one  
13 (21) years of age to test compliance if the compliance test is being  
14 conducted by or on behalf of a retailer of cigarettes, as defined in  
15 Section 301 of Title 68 of the Oklahoma Statutes, at any location  
16 the retailer of cigarettes is authorized to sell cigarettes. Any  
17 other use of persons under ~~eighteen (18)~~ twenty-one (21) years of  
18 age to test compliance shall be unlawful and punishable by the ABLE  
19 Commission by assessment of an administrative fine of One Hundred  
20 Dollars (\$100.00).

21 F. At the beginning of each month, the Oklahoma Tax Commission,  
22 pursuant to Section 205 of Title 68 of the Oklahoma Statutes, shall  
23 provide to the ABLE Commission and to each municipality which has  
24 ordinances concerning the Prevention of Youth Access to Tobacco Act,

1 the location, name, and address of each licensee licensed to sell  
2 tobacco products or vapor products at retail or otherwise furnish  
3 tobacco products or vapor products. Upon violation of an employee  
4 at a location, the ABLE Commission shall notify the storeowner for  
5 that location of the latest and all previous violations when one of  
6 their employees has been determined to be in violation of the  
7 Prevention of Youth Access to Tobacco Act by the ABLE Commission or  
8 convicted of a violation by a municipality. If the ABLE Commission  
9 fails to notify the licensee of a violation by an employee, that  
10 violation shall not apply against the licensee for the purpose of  
11 determining a license suspension pursuant to Section ~~600.3~~ 1-229.13  
12 of this title. For purposes of this subsection, notification shall  
13 be deemed given if the ABLE Commission mails, by mail with delivery  
14 confirmation, the notification to the address which is on file with  
15 the Oklahoma Tax Commission of the licensee or sales tax permit  
16 holder of the location at which the violation occurred and the ABLE  
17 Commission receives delivery confirmation from the U.S. Postal  
18 Service.

19 G. Upon request of a storeowner or a municipality which has  
20 enacted ordinances in accordance with the Prevention of Youth Access  
21 to Tobacco Act, the ABLE Commission is hereby authorized to provide  
22 information on any Prevention of Youth Access to Tobacco Act offense  
23 of any applicant for employment or employee of the storeowner.

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1 H. The ABLE Commission shall prepare for submission annually to  
2 the Secretary of the United States Department of Health and Human  
3 Services, the report required by Section 1926 of the federal Public  
4 Health Service Act (42 U.S.C. 300-26), and otherwise shall be  
5 responsible for ensuring the state's compliance with that provision  
6 of federal law and any implementing of regulations promulgated by  
7 the United States Department of Health and Human Services.

8 SECTION 12. AMENDATORY 37 O.S. 2011, Section 600.13, as  
9 amended by Section 13, Chapter 162, O.S.L. 2014, and as renumbered  
10 by Section 184, Chapter 366, O.S.L. 2016 (63 O.S. Supp. 2019,  
11 Section 1-229.26), is amended to read as follows:

12 Section 1-229.26 A. It is unlawful for any person to sell,  
13 give or furnish in any manner to another person who is under  
14 ~~eighteen (18)~~ twenty-one (21) years of age any material or device  
15 used in the smoking, chewing, or other method of consumption of  
16 tobacco products or vapor products, including cigarette papers,  
17 pipes, holders of smoking materials of all types, and other items  
18 designed primarily for the smoking or ingestion of tobacco products  
19 or vapor products.

20 B. When a person violates subsection A of this section, the  
21 Alcoholic Beverage Laws Enforcement (ABLE) Commission shall impose  
22 an administrative fine of not more than One Hundred Dollars  
23 (\$100.00) for each offense.

24

1 SECTION 13. AMENDATORY Section 6, Chapter 369, O.S.L.  
2 2017 (63 O.S. Supp. 2019, Section 1-1530), is amended to read as  
3 follows:

4 Section 1-1530. The ~~Oklahoma~~ State Department of Health and the  
5 Department of Mental Health and Substance Abuse Services shall work  
6 together to develop new and innovative strategies to prevent tobacco  
7 use ~~by minors~~ or use of vapor products by persons under the age of  
8 twenty-one (21).

9 SECTION 14. It being immediately necessary for the preservation  
10 of the public peace, health or safety, an emergency is hereby  
11 declared to exist, by reason whereof this act shall take effect and  
12 be in full force from and after its passage and approval.

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