

1 ENGROSSED HOUSE
2 BILL NO. 1432

By: Wallace and Loring of the
House

3 and

4 Weaver of the Senate
5

6
7 An Act relating to tobacco and vapor products;
8 amending 37 O.S. 2011, Section 600.4, as renumbered
9 by Section 28, Chapter 404, O.S.L. 2013, and as
10 amended by Section 5, Chapter 162, O.S.L. 2014 (10A
11 O.S. Supp. 2019, Section 2-8-224), which relates to
12 purchase, receipt or possession of tobacco or vapor
13 products by minors; amending 21 O.S. 2011, Sections
14 1241 and 1242, as amended by Sections 1 and 2,
15 Chapter 162, O.S.L. 2014 (21 O.S. Supp. 2019,
16 Sections 1241 and 1242), which relate to furnishing
17 of tobacco or vapor products to minors; amending 37
18 O.S. 2011, Sections 600.2, 600.3, 600.5, 600.6,
19 600.7, 600.8, 600.10A, 600.11 and 600.13, as amended
20 by Sections 3, 4, 6, 7, 8, 9, 11, 12 and 13, Chapter
21 162, O.S.L. 2014, and as renumbered by Sections 171,
22 172, 173, 174, 175, 176, 179, 180 and 184, Chapter
23 366, O.S.L. 2016 (63 O.S. Supp. 2019, Sections 1-
24 229.12, 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
statutory reference; clarifying language; and
declaring an emergency.

1 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

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

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

18 1. Not to exceed One Hundred Dollars (\$100.00) for a first
19 offense; and

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

23 Upon failure of the individual to pay the administrative fine
24 within ninety (90) days of the day of the fine, the ABLE Commission

1 shall notify the Department of Public Safety, and the Department
2 shall suspend or not issue a driver license to the individual until
3 proof of payment has been furnished to the Department of Public
4 Safety.

5 C. The ABLE Commission shall establish rules to provide for
6 notification to a parent or guardian of any minor cited for a
7 violation of this section.

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

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

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

20 Section 1241. Any person who shall furnish to any ~~minor~~ person
21 under the age of twenty-one (21) by gift, sale or otherwise any
22 cigarettes, cigarette papers, cigars, bidis, snuff, chewing tobacco,
23 or any other form of tobacco product, or vapor products shall be
24 guilty of a misdemeanor and, upon conviction, shall be punished by a

1 fine in the amount of not less than Twenty-five Dollars (\$25.00) nor
2 more than Two Hundred Dollars (\$200.00) and by imprisonment in the
3 county jail for a term of not less than ten (10) days nor more than
4 ninety (90) days for each offense. For the purposes of this
5 section, the term "vapor product" shall have the same meaning as
6 provided in the Prevention of Youth Access to Tobacco Act.

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

10 Section 1242. Any ~~minor~~ person under the age of twenty-one (21)
11 being in possession of cigarettes, cigarette papers, cigars, snuff,
12 chewing tobacco, or any other form of tobacco product, or vapor
13 products and being by any police officer, constable, juvenile court
14 officer, truant officer, or teacher in any school, asked where and
15 from whom such cigarettes, cigarette papers, cigars, snuff, chewing
16 tobacco, or any other form of tobacco product, or vapor products
17 were obtained, who shall refuse to furnish such information, shall
18 be guilty of a misdemeanor and upon conviction thereof before the
19 district court, or any judge of the district court, such minor being
20 of the age of sixteen (16) years or upwards shall be sentenced to
21 pay a fine not exceeding Five Dollars (\$5.00) or to undergo an
22 imprisonment in the jail of the proper county not exceeding five (5)
23 days, or both; if such minor shall be under the age of sixteen (16)
24 years, he or she shall be certified by such magistrate or justice to

1 the juvenile court of the county for such action as the court shall
2 deem proper. For the purposes of this section, the term "vapor
3 product" shall have the same meaning as provided in the Prevention
4 of Youth Access to Tobacco Act.

5 SECTION 4. AMENDATORY 37 O.S. 2011, Section 600.2, as
6 amended by Section 3, Chapter 162, O.S.L. 2014, and as renumbered by
7 Section 171, Chapter 366, O.S.L. 2016 (63 O.S. Supp. 2019, Section
8 1-229.12), is amended to read as follows:

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

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

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

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

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

24

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

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

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

11 8. "Vapor product" shall mean noncombustible products, that may
12 or may not contain nicotine, that employ a mechanical heating
13 element, battery, electronic circuit, or other mechanism, regardless
14 of shape or size, that can be used to produce a vapor in a solution
15 or other form. "Vapor products" shall include any vapor cartridge
16 or other container with or without nicotine or other form that is
17 intended to be used with an electronic cigarette, electronic cigar,
18 electronic cigarillo, electronic pipe, or similar product or device
19 and any vapor cartridge or other container of a solution, that may
20 or may not contain nicotine, that is intended to be used with or in
21 an electronic cigarette, electronic cigar, electronic cigarillo or
22 electronic device. "Vapor products" do not include any products
23 regulated by the United States Food and Drug Administration under
24 Chapter V of the Food, Drug, and Cosmetic Act.

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

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

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

18 If an individual engaged in the sale or distribution of tobacco
19 products or vapor products has demanded proof of age from a
20 prospective purchaser or recipient who is not under ~~eighteen (18)~~
21 twenty-one (21) years of age, the failure to subsequently require
22 proof of age shall not constitute a violation of this subsection.
23
24

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

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

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

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

18 d. not more than Three Hundred Dollars (\$300.00) for a
19 fourth or subsequent offense within a two-year period
20 following the first offense. In addition to any other
21 penalty, the store's license to sell tobacco products
22 or the store's sales tax permit for a store that is
23 predominantly engaged in the sale of vapor products in
24 which the sale of other products is merely incidental

1 may be suspended for a period not exceeding sixty (60)
2 days.

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

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

- 17 a. the individual who purchased or received the tobacco
18 product or vapor product presented a driver license or
19 other government-issued photo identification
20 purporting to establish that such individual was
21 ~~eighteen (18)~~ twenty-one (21) years of age or older,
22 or
- 23 b. the person cited for the violation confirmed the
24 validity of the driver license or other government-

1 issued photo identification presented by such
2 individual by performing a transaction scan by means
3 of a transaction scan device.

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

12 D. If the sale is made by an employee of the owner of a store
13 at which tobacco products or vapor products are sold at retail, the
14 employee shall be guilty of the violation and shall be subject to
15 the fine. Each violation by any employee of an owner of a store
16 licensed to sell tobacco products or permitted to sell vapor
17 products shall be deemed a violation against the owner for purposes
18 of a license suspension pursuant to subsection C of this section.
19 Each violation by an employee of a store predominantly engaged in
20 the sale of vapor products in which the sale of other products is
21 merely incidental shall be deemed a violation against the owner for
22 purposes of a sales tax permit suspension pursuant to the provisions
23 of subsection C of this section. An owner of a store licensed to
24 sell tobacco products or permitted to sell vapor products shall not

1 be deemed in violation of the provisions of the Prevention of Youth
2 Access to Tobacco Act for any acts constituting a violation by any
3 person, when the violation occurs prior to actual employment of the
4 person by the store owner or the violation occurs at a location
5 other than the owner's retail store. For purposes of determining
6 the liability of a person controlling franchises or business
7 operations in multiple locations, for any violations of subsection A
8 or B of this section, each individual franchise or business location
9 shall be deemed a separate entity.

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

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

21 2. Upon failure of a storeowner to pay the administrative fine
22 within ninety (90) days of the assessment of the fine, the ABLE
23 Commission shall notify the Tax Commission, and the Tax Commission
24 shall suspend the store's license to sell tobacco products or the

1 store's sales tax permit for a store that is predominantly engaged
2 in the sale of vapor products in which the sale of other products is
3 merely incidental until proof of payment has been furnished to the
4 Oklahoma Tax Commission.

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

11 H. County sheriffs may enforce the provisions of the Prevention
12 of Youth Access to Tobacco Act.

13 SECTION 6. AMENDATORY 37 O.S. 2011, Section 600.5, as
14 amended by Section 6, Chapter 162, O.S.L. 2014, and as renumbered by
15 Section 173, Chapter 366, O.S.L. 2016 (63 O.S. Supp. 2019, Section
16 1-229.15), is amended to read as follows:

17 Section 1-229.15 A. Every person who sells or displays tobacco
18 products or vapor products at retail shall post conspicuously and
19 keep so posted at the place of business a sign, as specified by the
20 Alcoholic Beverage Laws Enforcement (ABLE) Commission, stating the
21 following: "IT'S THE LAW. WE DO NOT SELL TOBACCO PRODUCTS OR VAPOR
22 PRODUCTS TO PERSONS UNDER ~~18~~ 21 YEARS OF AGE". The sign shall also
23 provide the toll-free number operated by the Alcoholic Beverage Laws
24

1 Enforcement (ABLE) Commission for the purpose of reporting
2 violations of the Prevention of Youth Access to Tobacco Act.

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

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

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

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

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

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

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

20 SECTION 8. AMENDATORY 37 O.S. 2011, Section 600.7, as
21 amended by Section 8, Chapter 162, O.S.L. 2014, and as renumbered by
22 Section 175, Chapter 366, O.S.L. 2016 (63 O.S. Supp. 2019, Section
23 1-229.17), is amended to read as follows:
24

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

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

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

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

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

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

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

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

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

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

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

13 E. 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 municipal
16 ordinances shall be the same as provided for in this section, and
17 the penalty provisions under such ordinances shall not be more
18 stringent than those of this section.

19 SECTION 10. AMENDATORY 37 O.S. 2011, Section 600.10A, as
20 amended by Section 11, Chapter 162, O.S.L. 2014, and as renumbered
21 by Section 179, Chapter 366, O.S.L. 2016 (63 O.S. Supp. 2019,
22 Section 1-229.21), is amended to read as follows:

23 Section 1-229.21 A. It is unlawful for any person or retail
24 store to display or offer for sale tobacco products or vapor

1 products in any manner that allows public access to the tobacco
2 products or vapor products without assistance from the person
3 displaying the tobacco products or vapor products or an employee or
4 the owner of the store. The provisions of this subsection shall not
5 apply to retail stores which do not admit into the store persons
6 under ~~eighteen (18)~~ twenty-one (21) years of age.

7 B. When a person violates subsection A of this section, the
8 Alcoholic Beverage Laws Enforcement (ABLE) Commission shall impose
9 an administrative fine of not more than Two Hundred Dollars
10 (\$200.00) for each offense.

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

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

21 Section 1-229.22 A. The Alcoholic Beverage Laws Enforcement
22 (ABLE) Commission is authorized and empowered to enforce the
23 provisions of ~~Sections 600.1~~ Section 1-229.11 et seq. of this title.
24 The ABLE Commission shall enforce those provisions in a manner that

1 can reasonably be expected to reduce the extent to which tobacco
2 products or vapor products are sold or distributed to persons under
3 ~~eighteen (18)~~ twenty-one (21) years of age.

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

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

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

19 E. Persons under ~~eighteen (18)~~ twenty-one (21) years of age may
20 be enlisted by the ABLE Commission, a municipality or town, or a
21 county to assist in compliance checks and enforcement; provided,
22 such persons may be used to test compliance only if written parental
23 consent has been provided and the testing is conducted under the
24 direct supervision of the ABLE Commission or conducted by another

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

17 F. At the beginning of each month, the Oklahoma Tax Commission,
18 pursuant to Section 205 of Title 68 of the Oklahoma Statutes, shall
19 provide to the ABLE Commission and to each municipality which has
20 ordinances concerning the Prevention of Youth Access to Tobacco Act,
21 the location, name, and address of each licensee licensed to sell
22 tobacco products or vapor products at retail or otherwise furnish
23 tobacco products or vapor products. Upon violation of an employee
24 at a location, the ABLE Commission shall notify the storeowner for

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

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

20 H. The ABLE Commission shall prepare for submission annually to
21 the Secretary of the United States Department of Health and Human
22 Services, the report required by Section 1926 of the federal Public
23 Health Service Act (42 U.S.C. 300-26), and otherwise shall be
24 responsible for ensuring the state's compliance with that provision

1 of federal law and any implementing of regulations promulgated by
2 the United States Department of Health and Human Services.

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

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

15 B. When a person violates subsection A of this section, the
16 Alcoholic Beverage Laws Enforcement (ABLE) Commission shall impose
17 an administrative fine of not more than One Hundred Dollars
18 (\$100.00) for each offense.

19 SECTION 13. AMENDATORY Section 6, Chapter 369, O.S.L.
20 2017 (63 O.S. Supp. 2019, Section 1-1530), is amended to read as
21 follows:

22 Section 1-1530. The ~~Oklahoma~~ State Department of Health and the
23 Department of Mental Health and Substance Abuse Services shall work
24 together to develop new and innovative strategies to prevent tobacco

1 use ~~by minors~~ or use of vapor products by persons under the age of
2 twenty-one (21).

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

7 Passed the House of Representatives the 5th day of March, 2020.

8
9
10 Presiding Officer of the House
of Representatives

11 Passed the Senate the ___ day of _____, 2020.

12
13
14 Presiding Officer of the Senate