

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 57th Legislature (2020)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1432

By: **Wallace** and Loring of the
House

and

Weaver of the Senate

10 COMMITTEE SUBSTITUTE

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

1 conforming provisions related to employees, proof of
2 age, signage, employee notification, vending
3 machines, display of tobacco or vapor products, the
4 Alcoholic Beverage Laws Enforcement Commission and
5 tobacco use prevention strategies; broadening
6 strategies to include vapor products; updating
7 statutory reference; clarifying language; and
8 declaring an emergency.

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

9 SECTION 1. AMENDATORY 37 O.S. 2011, Section 600.4, as
10 renumbered by Section 28, Chapter 404, O.S.L. 2013, and as amended
11 by Section 5, Chapter 162, O.S.L. 2014 (10A O.S. Supp. 2019, Section
12 2-8-224), is amended to read as follows:

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

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

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

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

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

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

15 D. 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 such ordinances
18 shall be the same as provided for in this section, and the
19 enforcement provisions under such ordinances shall not be more
20 stringent than those of this section.

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

24

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

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

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

18 Section 1242. Any ~~minor~~ person under the age of twenty-one (21)
19 being in possession of cigarettes, cigarette papers, cigars, snuff,
20 chewing tobacco, or any other form of tobacco product, or vapor
21 products and being by any police officer, constable, juvenile court
22 officer, truant officer, or teacher in any school, asked where and
23 from whom such cigarettes, cigarette papers, cigars, snuff, chewing
24 tobacco, or any other form of tobacco product, or vapor products

1 were obtained, who shall refuse to furnish such information, shall
2 be guilty of a misdemeanor and upon conviction thereof before the
3 district court, or any judge of the district court, such minor being
4 of the age of sixteen (16) years or upwards shall be sentenced to
5 pay a fine not exceeding Five Dollars (\$5.00) or to undergo an
6 imprisonment in the jail of the proper county not exceeding five (5)
7 days, or both; if such minor shall be under the age of sixteen (16)
8 years, he or she shall be certified by such magistrate or justice to
9 the juvenile court of the county for such action as the court shall
10 deem proper. For the purposes of this section, the term "vapor
11 product" shall have the same meaning as provided in the Prevention
12 of Youth Access to Tobacco Act.

13 SECTION 4. AMENDATORY 37 O.S. 2011, Section 600.2, as
14 amended by Section 3, Chapter 162, O.S.L. 2014, and as renumbered by
15 Section 171, Chapter 366, O.S.L. 2016 (63 O.S. Supp. 2019, Section
16 1-229.12), is amended to read as follows:

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

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

21 2. "Proof of age" means a driver license, license for
22 identification only, or other generally accepted means of
23 identification that describes the individual as ~~eighteen (18)~~
24 twenty-one (21) years of age or older and contains a photograph or

1 other likeness of the individual and appears on its face to be
2 valid;

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

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

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

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

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

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

1 | electronic cigarillo, electronic pipe, or similar product or device
2 | and any vapor cartridge or other container of a solution, that may
3 | or may not contain nicotine, that is intended to be used with or in
4 | an electronic cigarette, electronic cigar, electronic cigarillo or
5 | electronic device. "Vapor products" do not include any products
6 | regulated by the United States Food and Drug Administration under
7 | Chapter V of the Food, Drug, and Cosmetic Act.

8 | SECTION 5. AMENDATORY 37 O.S. 2011, Section 600.3, as
9 | amended by Section 4, Chapter 162, O.S.L. 2014, and as renumbered by
10 | Section 172, Chapter 366, O.S.L. 2016 (63 O.S. Supp. 2019, Section
11 | 1-229.13), is amended to read as follows:

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

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

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

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

- 9 a. not more than One Hundred Dollars (\$100.00) for the
10 first offense,
- 11 b. not more than Two Hundred Dollars (\$200.00) for the
12 second offense within a two-year period following the
13 first offense,
- 14 c. not more than Three Hundred Dollars (\$300.00) for a
15 third offense within a two-year period following the
16 first offense. In addition to any other penalty, the
17 store's license to sell tobacco products or the
18 store's sales tax permit for a store that is
19 predominantly engaged in the sale of vapor products in
20 which the sale of other products is merely incidental
21 may be suspended for a period not exceeding thirty
22 (30) days, or
- 23 d. not more than Three Hundred Dollars (\$300.00) for a
24 fourth or subsequent offense within a two-year period

1 following the first offense. In addition to any other
2 penalty, the store's license to sell tobacco products
3 or the store's sales tax permit for a store that is
4 predominantly engaged in the sale of vapor products in
5 which the sale of other products is merely incidental
6 may be suspended for a period not exceeding sixty (60)
7 days.

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

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

- 22 a. the individual who purchased or received the tobacco
23 product or vapor product presented a driver license or
24 other government-issued photo identification

1 purporting to establish that such individual was
2 ~~eighteen (18)~~ twenty-one (21) years of age or older,
3 or

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

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

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

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

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

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

1 license to the employee until proof of payment has been furnished to
2 the Department of Public Safety.

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

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

19 SECTION 6. AMENDATORY 37 O.S. 2011, Section 600.5, as
20 amended by Section 6, Chapter 162, O.S.L. 2014, and as renumbered by
21 Section 173, Chapter 366, O.S.L. 2016 (63 O.S. Supp. 2019, Section
22 1-229.15), is amended to read as follows:

23 Section 1-229.15 A. Every person who sells or displays tobacco
24 products or vapor products at retail shall post conspicuously and

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

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

16 SECTION 7. AMENDATORY 37 O.S. 2011, Section 600.6, as
17 amended by Section 7, Chapter 162, O.S.L. 2014, and as renumbered by
18 Section 174, Chapter 366, O.S.L. 2016 (63 O.S. Supp. 2019, Section
19 1-229.16), is amended to read as follows:

20 Section 1-229.16 A. Every person engaged in the business of
21 selling tobacco products or vapor products at retail shall notify
22 each individual employed by that person as a retail sales clerk that
23 state law:
24

1 1. Prohibits the sale or distribution of tobacco products or
2 vapor products to any person under ~~eighteen (18)~~ twenty-one (21)
3 years of age and the purchase or receipt of tobacco products or
4 vapor products by any person under ~~eighteen (18)~~ twenty-one (21)
5 years of age; and

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

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

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

1 SECTION 8. AMENDATORY 37 O.S. 2011, Section 600.7, as
2 amended by Section 8, Chapter 162, O.S.L. 2014, and as renumbered by
3 Section 175, Chapter 366, O.S.L. 2016 (63 O.S. Supp. 2019, Section
4 1-229.17), is amended to read as follows:

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

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

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

12 SECTION 9. AMENDATORY 37 O.S. 2011, Section 600.8, as
13 amended by Section 9, Chapter 162, O.S.L. 2014, and as renumbered by
14 Section 176, Chapter 366, O.S.L. 2016 (63 O.S. Supp. 2019, Section
15 1-229.18), is amended to read as follows:

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

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

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.

24

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.

13
14 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
15 02/26/2020 - DO PASS, As Amended and Coauthored.

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