

1 ENGROSSED HOUSE AMENDMENT

TO

2 ENGROSSED SENATE BILL NO. 1602

By: Johnson (Rob) of the Senate

3 and

4 Jackson of the House

5

6

7 An Act relating to tobacco products; amending 21 O.S.
8 2011, Section 1241, which relates to furnishing
9 certain products to minors; amending 21 O.S. 2011,
10 Section 1242, which relates to certain refusals;
11 amending 37 O.S. 2011, Section 600.2, which relates
12 to definitions; amending 37 O.S. 2011, Section 600.3,
13 which relates to furnishing of tobacco products;
14 amending 37 O.S. 2011, Section 600.4, as renumbered
15 by Section 28, Chapter 404, O.S.L. 2013 (10A O.S.
16 Supp. 2013, Section 2-8-224), which relates to
17 purchase and receipt of tobacco products; amending 37
18 O.S. 2011, Section 600.5, which relates to signs in
19 retail establishments; amending 37 O.S. 2011, Section
20 600.6, which relates to notice to retail employees;
21 amending 37 O.S. 2011, Section 600.7, which relates
22 to restrictions on vending machine sales; amending 37
23 O.S. 2011, Section 600.8, which relates to
24 distribution of tobacco product samples; amending 37
O.S. 2011, Section 600.10, which relates to
regulation by political subdivisions; amending 37
O.S. 2011, Section 600.10A, which relates to display
or sale of tobacco products; amending 37 O.S. 2011,
Section 600.11, which relates to enforcement of
certain acts; amending 37 O.S. 2011, Section 600.13,
which relates to prohibition of certain product
transfers; providing definitions; adding vapor
products to certain laws relating to tobacco
products; and providing an effective date.

23 AMENDMENT NO. 1. Strike the title, enacting clause and entire bill
24 and insert

1 "An Act relating to tobacco products; amending 21
2 O.S. 2011, Section 1241, which relates to furnishing
3 certain products to minors; amending 21 O.S. 2011,
4 Section 1242, which relates to certain refusals;
5 amending 37 O.S. 2011, Section 600.2, which relates
6 to definitions; amending 37 O.S. 2011, Section
7 600.3, which relates to furnishing of tobacco
8 products; amending 37 O.S. 2011, Section 600.4, as
9 renumbered by Section 28, Chapter 404, O.S.L. 2013
10 (10A O.S. Supp. 2013, Section 2-8-224), which
11 relates to purchase and receipt of tobacco products;
12 amending 37 O.S. 2011, Section 600.5, which relates
13 to signs in retail establishments; amending 37 O.S.
14 2011, Section 600.6, which relates to notice to
15 retail employees; amending 37 O.S. 2011, Section
16 600.7, which relates to restrictions on vending
17 machine sales; amending 37 O.S. 2011, Section 600.8,
18 which relates to distribution of tobacco product
19 samples; amending 37 O.S. 2011, Section 600.10,
20 which relates to regulation by political
21 subdivisions; amending 37 O.S. 2011, Section
22 600.10A, which relates to display or sale of tobacco
23 products; amending 37 O.S. 2011, Section 600.11,
24 which relates to enforcement of certain acts;
amending 37 O.S. 2011, Section 600.13, which relates
to prohibition of certain product transfers;
providing definitions; adding vapor products to
certain laws relating to tobacco products; and
providing an effective date.

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

SECTION 1. AMENDATORY 21 O.S. 2011, Section 1241, is
amended to read as follows:

Section 1241. Any person who shall furnish to any minor by
gift, sale or otherwise any cigarettes, cigarette papers, cigars,
bidis, snuff, chewing tobacco, or any other form of tobacco product,
or vapor products shall be guilty of a misdemeanor and, upon

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

8 SECTION 2. AMENDATORY 21 O.S. 2011, Section 1242, is
9 amended to read as follows:

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

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

5 SECTION 3. AMENDATORY 37 O.S. 2011, Section 600.2, is
6 amended to read as follows:

7 Section 600.2 As used in the Prevention of Youth Access to
8 Tobacco Act:

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

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

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

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

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

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

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

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

23 SECTION 4. AMENDATORY 37 O.S. 2011, Section 600.3, is
24 amended to read as follows:

1 Section 600.3 A. It is unlawful for any person to sell, give
2 or furnish in any manner any tobacco product or vapor product to
3 another person who is under eighteen (18) years of age, or to
4 purchase in any manner a tobacco product or vapor product on behalf
5 of any such person. It shall not be unlawful for an employee under
6 eighteen (18) years of age to handle tobacco products or vapor
7 products when required in the performance of the employee's duties.

8 B. A person engaged in the sale or distribution of tobacco
9 products or vapor products shall demand proof of age from a
10 prospective purchaser or recipient if an ordinary person would
11 conclude on the basis of appearance that the prospective purchaser
12 may be under eighteen (18) years of age.

13 If an individual engaged in the sale or distribution of tobacco
14 products or vapor products has demanded proof of age from a
15 prospective purchaser or recipient who is not under eighteen (18)
16 years of age, the failure to subsequently require proof of age shall
17 not constitute a violation of ~~subsection B of this section~~ this
18 subsection.

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

22 a. not more than One Hundred Dollars (\$100.00) for the
23 first offense,
24

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

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

13 d. not more than Three Hundred Dollars (\$300.00) for a
14 fourth or subsequent offense within a two-year period
15 following the first offense. In addition to any other
16 penalty, the store's license to sell tobacco products
17 or the store's sales tax permit for a store that is
18 predominantly engaged in the sale of vapor products in
19 which the sale of other products is merely incidental
20 may be suspended for a period not exceeding sixty (60)
21 days.

22 2. When it has been determined that a penalty shall include a
23 license or permit suspension, the ABLE Commission shall notify the
24 Oklahoma Tax Commission, and the Tax Commission shall suspend the

1 store's license to sell tobacco products or the store's sales tax
2 permit for a store that is predominantly engaged in the sale of
3 vapor products in which the sale of other products is merely
4 incidental at the location where the offense occurred for the period
5 of time prescribed by the ABLE Commission.

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

12 a. the individual who purchased or received the tobacco
13 product or vapor product presented a driver license or
14 other government-issued photo identification
15 purporting to establish that such individual was
16 eighteen (18) years of age or older, ~~and~~ or

17 b. the person cited for the violation confirmed the
18 validity of the driver license or other government-
19 issued photo identification presented by such
20 individual by performing a transaction scan by means
21 of a transaction scan device.

22 Provided, that this defense shall not relieve from liability any
23 person cited for a violation of this section if ~~such~~ the person
24 failed to exercise reasonable diligence to determine whether the

1 physical description and picture appearing on the driver license or
2 other government-issued photo identification was that of the
3 individual who presented it. The availability of the defense
4 described in this subsection does not affect the availability of any
5 other defense under any other provision of law.

6 D. If the sale is made by an employee of the owner of a store
7 at which tobacco products or vapor products are sold at retail, the
8 employee shall be guilty of the violation and shall be subject to
9 the fine. Each violation by any employee of an owner of a store
10 licensed to sell tobacco products or permitted to sell vapor
11 products shall be deemed a violation against the owner for purposes
12 of a license suspension pursuant to subsection C of this section.
13 Each violation by an employee of a store predominantly engaged in
14 the sale of vapor products in which the sale of other products is
15 merely incidental shall be deemed a violation against the owner for
16 purposes of a sales tax permit suspension pursuant to the provisions
17 of subsection C of this section. An owner of a store licensed to
18 sell tobacco products or permitted to sell vapor products shall not
19 be deemed in violation of the provisions of the Prevention of Youth
20 Access to Tobacco Act for any acts constituting a violation by any
21 person, when the violation occurs prior to actual employment of the
22 person by the store owner or the violation occurs at a location
23 other than the owner's retail store. For purposes of determining
24 the liability of a person controlling franchises or business

1 operations in multiple locations, for any violations of subsection A
2 or B of this section, each individual franchise or business location
3 shall be deemed a separate entity.

4 E. On or before December 15, 1997, the ABLE Commission shall
5 adopt rules establishing a method of notification of storeowners
6 when one of their employees has been determined to be in violation
7 of this section by the ABLE Commission or convicted of a violation
8 by a municipality.

9 F. 1. Upon failure of the employee to pay the administrative
10 fine within ninety (90) days of the day of the assessment of such
11 fine, the ABLE Commission shall notify the Department of Public
12 Safety, and the Department shall suspend or not issue a driver
13 license to the employee until proof of payment has been furnished to
14 the Department of Public Safety.

15 2. Upon failure of a storeowner to pay the administrative fine
16 within ninety (90) days of the assessment of the fine, the ABLE
17 Commission shall notify the Tax Commission, and the Tax Commission
18 shall suspend the store's license to sell tobacco products or the
19 store's sales tax permit for a store that is predominantly engaged
20 in the sale of vapor products in which the sale of other products is
21 merely incidental until proof of payment has been furnished to the
22 Oklahoma Tax Commission.

23 G. Cities and towns may enact and municipal police officers may
24 enforce ordinances prohibiting and penalizing conduct under

1 provisions of this section, but the provisions of municipal
2 ordinances shall be the same as provided for in this section, and
3 the penalty provisions under such ordinances shall not be more
4 stringent than those of this section.

5 H. County sheriffs may enforce the provisions of the Prevention
6 of Youth Access to Tobacco Act.

7 SECTION 5. AMENDATORY 37 O.S. 2011, Section 600.4, as
8 renumbered by Section 28, Chapter 404, O.S.L. 2013 (10A O.S. Supp.
9 2013, Section 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) years of age to purchase, receive, or have in ~~their~~
12 his or her possession a tobacco product, or vapor product, or to
13 present or offer to any person any purported proof of age which is
14 false or fraudulent, for the purpose of purchasing or receiving any
15 tobacco product or vapor product. It shall not be unlawful for an
16 employee under eighteen (18) years of age to handle tobacco products
17 or vapor products when required in the performance of the employee's
18 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 6. AMENDATORY 37 O.S. 2011, Section 600.5, is
23 amended to read as follows:

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1 Section 600.5 A. Every person who sells or displays tobacco
2 products or vapor products at retail shall post conspicuously and
3 keep so posted at the place of business a sign, as specified by the
4 Alcoholic Beverage Laws Enforcement (ABLE) Commission, stating the
5 following: "IT'S THE LAW. WE DO NOT SELL TOBACCO PRODUCTS OR VAPOR
6 PRODUCTS TO PERSONS UNDER 18 YEARS OF AGE". The sign shall also
7 provide the toll-free number operated by the Alcoholic Beverage Laws
8 Enforcement (ABLE) Commission for the purpose of reporting
9 violations of the Prevention of Youth Access to Tobacco Act.

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

18 SECTION 7. AMENDATORY 37 O.S. 2011, Section 600.6, is
19 amended to read as follows:

20 Section 600.6 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) years of age and
3 the purchase or receipt of tobacco products or vapor products by any
4 person under eighteen (18) years of age; and

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

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

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

23 SECTION 8. AMENDATORY 37 O.S. 2011, Section 600.7, is
24 amended to read as follows:

1 Section 600.7 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) years of age are not admitted.

8 SECTION 9. AMENDATORY 37 O.S. 2011, Section 600.8, is
9 amended to read as follows:

10 Section 600.8 A. It shall be unlawful for any person or
11 retailer to distribute tobacco products, vapor products or product
12 samples to any person under eighteen (18) years of age.

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

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

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

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

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

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

9 E. 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 SECTION 10. AMENDATORY 37 O.S. 2011, Section 600.10, is
16 amended to read as follows:

17 Section 600.10 No agency or other political subdivision of the
18 state, including, but not limited to, municipalities, counties or
19 any agency thereof, may adopt any order, ordinance, rule or
20 regulation concerning the sale, purchase, distribution, advertising,
21 sampling, promotion, display, possession, licensing, or taxation of
22 tobacco products or vapor products, except as provided in Section
23 1511 of Title 68 of the Oklahoma Statutes, Section 1-1521 et seq. of
24 Title 63 of the Oklahoma Statutes and Section 1247 of Title 21 of

1 the Oklahoma Statutes. Provided, however, nothing in this section
2 shall preclude or preempt any agency or political subdivision from
3 exercising its lawful authority to regulate zoning or land use or to
4 enforce a fire code regulation regulating smoking or tobacco
5 products to the extent that such regulation is substantially similar
6 to nationally recognized standard fire codes.

7 SECTION 11. AMENDATORY 37 O.S. 2011, Section 600.10A, is
8 amended to read as follows:

9 Section 600.10A A. It is unlawful for any person or retail
10 store to display or offer for sale tobacco products or vapor
11 products in any manner that allows public access to the tobacco
12 ~~product~~ products or vapor products without assistance from the
13 person displaying the tobacco ~~product~~ products or vapor products or
14 an employee or the owner of the store. The provisions of this
15 subsection shall not apply to retail stores which do not admit into
16 the store persons under eighteen (18) years of age.

17 B. When a person violates subsection A of this section, the
18 Alcoholic Beverage Laws Enforcement (ABLE) Commission shall impose
19 an administrative fine of not more than Two Hundred Dollars
20 (\$200.00) for each offense.

21 C. Cities and towns may enact and municipal police officers may
22 enforce ordinances prohibiting and penalizing conduct under
23 provisions of this section, but the provisions of municipal
24 ordinances shall be the same as provided for in this section, and

1 the penalty provisions under such ordinances shall not be more
2 stringent than those of this section.

3 SECTION 12. AMENDATORY 37 O.S. 2011, Section 600.11, is
4 amended to read as follows:

5 Section 600.11 A. The Alcoholic Beverage Laws Enforcement
6 (ABLE) Commission is authorized and empowered to enforce the
7 provisions of Sections 600.1 et seq. of this title. The ABLE
8 Commission shall enforce those provisions in a manner that can
9 reasonably be expected to reduce the extent to which tobacco
10 products or vapor products are sold or distributed to persons under
11 eighteen (18) years of age.

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

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

22 D. For the purpose of determining second or subsequent
23 violations, both the offenses penalized by the ABLE Commission as
24 administrative fines and the offenses penalized by municipalities

1 and towns and reported to the ABLE Commission, shall be considered
2 together in such determination.

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

24

1 F. At the beginning of each month, the Oklahoma Tax Commission,
2 pursuant to Section 205 of Title 68 of the Oklahoma Statutes, shall
3 provide to the ABLE Commission and to each municipality which has
4 ordinances concerning the Prevention of Youth Access to Tobacco Act,
5 the location, name, and address of each licensee licensed to sell
6 tobacco products or vapor products at retail or otherwise furnish
7 tobacco products or vapor products. Upon violation of an employee
8 at a location, the ABLE Commission shall notify the storeowner for
9 that location of the latest and all previous violations when one of
10 their employees has been determined to be in violation of the
11 Prevention of Youth Access to Tobacco Act by the ABLE Commission or
12 convicted of a violation by a municipality. If the ABLE Commission
13 fails to notify the licensee of a violation by an employee, that
14 violation shall not apply against the licensee for the purpose of
15 determining a license suspension pursuant to Section 600.3 of this
16 title. For purposes of this subsection, notification shall be
17 deemed given if the ABLE Commission mails, by mail with delivery
18 confirmation, the notification to the address which is on file with
19 the Oklahoma Tax Commission of the licensee or sales tax permit
20 holder of the location at which the violation occurred and the ABLE
21 Commission receives delivery confirmation from the U.S. Postal
22 Service.

23 G. Upon request of a storeowner or a municipality which has
24 enacted ordinances in accordance with the Prevention of Youth Access

1 to Tobacco Act, the ABLE Commission is hereby authorized to provide
2 information on any Prevention of Youth Access to Tobacco Act offense
3 of any applicant for employment or employee of the storeowner.

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

11 SECTION 13. AMENDATORY 37 O.S. 2011, Section 600.13, is
12 amended to read as follows:

13 Section 600.13 A. It is unlawful for any person to sell, give
14 or furnish in any manner to another person who is under eighteen
15 (18) years of age any material or device used in the smoking,
16 chewing, or other method of consumption of tobacco products or vapor
17 products, including cigarette papers, pipes, holders of smoking
18 materials of all types, and other items designed primarily for the
19 smoking or ingestion of tobacco products 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 SECTION 14. This act shall become effective November 1, 2014."

1 ENGROSSED SENATE
2 BILL NO. 1602

By: Johnson (Rob) of the Senate

3 and

4 Jackson of the House

5
6 An Act relating to tobacco products; amending 21 O.S.
7 2011, Section 1241, which relates to furnishing
8 certain products to minors; amending 21 O.S. 2011,
9 Section 1242, which relates to certain refusals;
10 amending 37 O.S. 2011, Section 600.2, which relates
11 to definitions; amending 37 O.S. 2011, Section 600.3,
12 which relates to furnishing of tobacco products;
13 amending 37 O.S. 2011, Section 600.4, as renumbered
14 by Section 28, Chapter 404, O.S.L. 2013 (10A O.S.
15 Supp. 2013, Section 2-8-224), which relates to
16 purchase and receipt of tobacco products; amending 37
17 O.S. 2011, Section 600.5, which relates to signs in
18 retail establishments; amending 37 O.S. 2011, Section
19 600.6, which relates to notice to retail employees;
20 amending 37 O.S. 2011, Section 600.7, which relates
21 to restrictions on vending machine sales; amending 37
22 O.S. 2011, Section 600.8, which relates to
23 distribution of tobacco product samples; amending 37
24 O.S. 2011, Section 600.10, which relates to
regulation by political subdivisions; amending 37
O.S. 2011, Section 600.10A, which relates to display
or sale of tobacco products; amending 37 O.S. 2011,
Section 600.11, which relates to enforcement of
certain acts; amending 37 O.S. 2011, Section 600.13,
which relates to prohibition of certain product
transfers; providing definitions; adding vapor
products to certain laws relating to tobacco
products; and providing an effective date.

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

SECTION 15. AMENDATORY 21 O.S. 2011, Section 1241, is
amended to read as follows:

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

12 SECTION 16. AMENDATORY 21 O.S. 2011, Section 1242, is
13 amended to read as follows:

14 Section 1242. Any minor being in possession of cigarettes,
15 cigarette papers, cigars, snuff, chewing tobacco, vapor products or
16 any other form of tobacco product and being by any police officer,
17 constable, juvenile court officer, truant officer, or teacher in any
18 school, asked where and from whom such cigarettes, cigarette papers,
19 cigars, snuff, chewing tobacco, vapor products or any other form of
20 tobacco product were obtained, who shall refuse to furnish such
21 information, shall be guilty of a misdemeanor and upon conviction
22 thereof before the district court, or any judge of the district
23 court, such minor being of the age of sixteen (16) years or upwards
24 shall be sentenced to pay a fine not exceeding Five Dollars (\$5.00)

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

8 SECTION 17. AMENDATORY 37 O.S. 2011, Section 600.2, is
9 amended to read as follows:

10 Section 600.2. As used in the Prevention of Youth Access to
11 Tobacco Act:

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

14 2. "Proof of age" means a driver license, license for
15 identification only, or other generally accepted means of
16 identification that describes the individual as eighteen (18) years
17 of age or older and contains a photograph or other likeness of the
18 individual and appears on its face to be 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, but does not include vapor
3 products;

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

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

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

24

1 regulated by the United States Food and Drug Administration under
2 Chapter V of the Food, Drug, and Cosmetic Act.

3 SECTION 18. AMENDATORY 37 O.S. 2011, Section 600.3, is
4 amended to read as follows:

5 Section 600.3. A. It is unlawful for any person to sell, give
6 or furnish in any manner any tobacco product or vapor product to
7 another person who is under eighteen (18) years of age, or to
8 purchase in any manner a tobacco product or vapor product on behalf
9 of any such person. It shall not be unlawful for an employee under
10 eighteen (18) years of age to handle tobacco products or vapor
11 products when required in the performance of the employee's duties.

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

17 If an individual engaged in the sale or distribution of tobacco
18 products or vapor products has demanded proof of age from a
19 prospective purchaser or recipient who is not under eighteen (18)
20 years of age, the failure to subsequently require proof of age shall
21 not constitute a violation of ~~subsection B of this section~~ this
22 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 may be
13 suspended for a period not exceeding thirty (30) days,
14 or

15 d. not more than Three Hundred Dollars (\$300.00) for a
16 fourth or subsequent offense within a two-year period
17 following the first offense. In addition to any other
18 penalty, the store's license to sell tobacco products
19 may be suspended for a period not exceeding sixty (60)
20 days.

21 2. When it has been determined that a penalty shall include a
22 license suspension, the ABLE Commission shall notify the Oklahoma
23 Tax Commission, and the Tax Commission shall suspend the store's
24

1 license to sell tobacco products at the location where the offense
2 occurred for the period of time prescribed by the ABLE Commission.

3 3. Proof that the defendant demanded, was shown, and reasonably
4 relied upon proof of age shall be a defense to any action brought
5 pursuant to this section. A person cited for violating this section
6 shall be deemed to have reasonably relied upon proof of age, and
7 such person shall not be found guilty of ~~such~~ the violation if such
8 person proves that:

- 9 a. the individual who purchased or received the tobacco
10 product or vapor product presented a driver license or
11 other government-issued photo identification
12 purporting to establish that such individual was
13 eighteen (18) years of age or older, ~~and~~ or
14 b. the person cited for the violation confirmed the
15 validity of the driver license or other government-
16 issued photo identification presented by such
17 individual by performing a transaction scan by means
18 of a transaction scan device.

19 Provided, that this defense shall not relieve from liability any
20 person cited for a violation of this section if ~~such~~ the person
21 failed to exercise reasonable diligence to determine whether the
22 physical description and picture appearing on the driver license or
23 other government-issued photo identification was that of the
24 individual who presented it. The availability of the defense

1 described in this subsection does not affect the availability of any
2 other defense under any other provision of law.

3 D. If the sale is made by an employee of the owner of a store
4 at which tobacco products or vapor products are sold at retail, the
5 employee shall be guilty of the violation and shall be subject to
6 the fine. Each violation by any employee of an owner of a store
7 licensed to sell tobacco products or vapor products shall be deemed
8 a violation against the owner for purposes of a license suspension
9 pursuant to subsection C of this section. Each violation by an
10 employee of a store engaged in the sale of vapor products shall be
11 deemed a violation against the owner for purposes of a sales tax
12 permit suspension pursuant to the provisions of subsection C of this
13 section. An owner of a store licensed to sell tobacco products or
14 vapor products shall not be deemed in violation of the provisions of
15 the Prevention of Youth Access to Tobacco Act for any acts
16 constituting a violation by any person, when the violation occurs
17 prior to actual employment of the person by the store owner or the
18 violation occurs at a location other than the owner's retail store.
19 For purposes of determining the liability of a person controlling
20 franchises or business operations in multiple locations, for any
21 violations of subsection A or B of this section, each individual
22 franchise or business location shall be deemed a separate entity.

23 E. On or before December 15, 1997, the ABLE Commission shall
24 adopt rules establishing a method of notification of storeowners

1 when one of their employees has been determined to be in violation
2 of this section by the ABLE Commission or convicted of a violation
3 by a municipality.

4 F. 1. Upon failure of the employee to pay the administrative
5 fine within ninety (90) days of the day of the assessment of such
6 fine, the ABLE Commission shall notify the Department of Public
7 Safety, and the Department shall suspend or not issue a driver
8 license to the employee until proof of payment has been furnished to
9 the Department of Public Safety.

10 2. Upon failure of a storeowner to pay the administrative fine
11 within ninety (90) days of the assessment of the fine, the ABLE
12 Commission shall notify the Tax Commission, and the Tax Commission
13 shall suspend the store's license to sell tobacco products or the
14 store's sales tax permit in cases of offenses relating to vapor
15 products until proof of payment has been furnished to the Oklahoma
16 Tax Commission.

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

23 H. County sheriffs may enforce the provisions of the Prevention
24 of Youth Access to Tobacco Act.

1 SECTION 19. AMENDATORY 37 O.S. 2011, Section 600.4, as
2 renumbered by Section 28, Chapter 404, O.S.L. 2013 (10A O.S. Supp.
3 2013, Section 2-8-224), is amended to read as follows:

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

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

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

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

21 Upon failure of the individual to pay the administrative fine
22 within ninety (90) days of the day of the fine, the ABLE Commission
23 shall notify the Department of Public Safety, and the Department
24 shall suspend or not issue a driver license to the individual until

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

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

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

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

15 SECTION 20. AMENDATORY 37 O.S. 2011, Section 600.5, is
16 amended to read as follows:

17 Section 600.5. 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 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 21. AMENDATORY 37 O.S. 2011, Section 600.6, is
12 amended to read as follows:

13 Section 600.6. A. Every person engaged in the business of
14 selling tobacco products or vapor products at retail shall notify
15 each individual employed by that person as a retail sales clerk that
16 state law:

17 1. Prohibits the sale or distribution of tobacco products or
18 vapor products to any person under eighteen (18) years of age and
19 the purchase or receipt of tobacco products or vapor products by any
20 person under eighteen (18) years of age; and

21 2. Requires that proof of age be demanded from a prospective
22 purchaser or recipient if an ordinary person would conclude on the
23 basis of appearance that the prospective purchaser or recipient may
24 be under eighteen (18) years of age.

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

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

15 SECTION 22. AMENDATORY 37 O.S. 2011, Section 600.7, is
16 amended to read as follows:

17 Section 600.7. It shall be unlawful for any person to sell
18 tobacco products or vapor products through a vending machine unless
19 the vending machine is located:

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

22 2. In places that are open to the public, but to which persons
23 under eighteen (18) years of age are not admitted.

24

1 SECTION 23. AMENDATORY 37 O.S. 2011, Section 600.8, is
2 amended to read as follows:

3 Section 600.8. A. It shall be unlawful for any person or
4 retailer to distribute tobacco products vapor products or product
5 samples to any person under eighteen (18) years of age.

6 B. No person shall distribute tobacco products, vapor products
7 or product samples in or on any public street, sidewalk, or park
8 that is within three hundred (300) feet of any playground, school,
9 or other facility when the facility is being used primarily by
10 persons under eighteen (18) years of age.

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

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

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

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

20 D. Upon failure of any person to pay an administrative fine
21 within ninety (90) days of the assessment of the fine, the ABLE
22 Commission shall notify the Department of Public Safety, and the
23 Department shall suspend or not issue a driver license to the person
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1 until proof of payment has been furnished to the Department of
2 Public Safety.

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

9 SECTION 24. AMENDATORY 37 O.S. 2011, Section 600.10, is
10 amended to read as follows:

11 Section 600.10. No agency or other political subdivision of the
12 state, including, but not limited to, municipalities, counties or
13 any agency thereof, may adopt any order, ordinance, rule or
14 regulation concerning the sale, purchase, distribution, advertising,
15 sampling, promotion, display, possession, licensing~~r~~ or taxation of
16 tobacco products or vapor products, except as provided in Section
17 1511 of Title 68 of the Oklahoma Statutes, Section 1-1521 et seq. of
18 Title 63 of the Oklahoma Statutes and Section 1247 of Title 21 of
19 the Oklahoma Statutes. Provided, however, nothing in this section
20 shall preclude or preempt any agency or political subdivision from
21 exercising its lawful authority to regulate zoning or land use or to
22 enforce a fire code regulation regulating smoking or tobacco
23 products or vapor products to the extent that such regulation is
24 substantially similar to nationally recognized standard fire codes.

1 SECTION 25. AMENDATORY 37 O.S. 2011, Section 600.10A, is
2 amended to read as follows:

3 Section 600.10A. 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 ~~product~~ products, or vapor products without assistance from the
7 person displaying the tobacco ~~product~~ products, or vapor products or
8 an employee or the owner of the store. The provisions of this
9 subsection shall not apply to retail stores which do not admit into
10 the store persons under eighteen (18) 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 26. AMENDATORY 37 O.S. 2011, Section 600.11, is
22 amended to read as follows:

23 Section 600.11. A. The Alcoholic Beverage Laws Enforcement
24 (ABLE) Commission is authorized and empowered to enforce the

1 provisions of Sections 600.1 et seq. of this title. The ABLE
2 Commission shall enforce those provisions in a manner that can
3 reasonably be expected to reduce the extent to which tobacco
4 products or vapor products are sold or distributed to persons under
5 eighteen (18) years of age.

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

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

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

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

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

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

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

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

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

1 responsible for ensuring the state's compliance with that provision
2 of federal law and any implementing of regulations promulgated by
3 the United States Department of Health and Human Services.

4 SECTION 27. AMENDATORY 37 O.S. 2011, Section 600.13, is
5 amended to read as follows:

6 Section 600.13. A. It is unlawful for any person to sell, give
7 or furnish in any manner to another person who is under eighteen
8 (18) years of age any material or device used in the smoking,
9 chewing, or other method of consumption of tobacco products or vapor
10 products, including cigarette papers, pipes, holders of smoking
11 materials of all types, and other items designed primarily for the
12 smoking or ingestion of tobacco products or vapor products.

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

17 SECTION 28. This act shall become effective November 1, 2014.
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