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<DateSubmitted>

HOUSE OF REPRESENTATIVES
CONFERENCE COMMITTEE REPORT

Mr. President:
Mr. Speaker:

The Conference Committee, to which was referred

HB2674

By: Marti of the House and Howard of the Senate

Title: Oklahoma Medical Marijuana Authority; transferring the Oklahoma Medical Marijuana Authority to the Alcoholic Beverage Laws Enforcement Commission; effective date.

Together with Engrossed Senate Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the Senate recede from its amendment; and
2. That the following Conference Committee Substitute be adopted.

Respectfully submitted,

SENATE CONFEREES

Taylor _____
Leewright _____
Paxton _____
McCortney _____
Pugh _____
Brooks _____

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 2nd CONFERENCE COMMITTEE
4 SUBSTITUTE

5 FOR ENGROSSED

6 HOUSE BILL NO. 2674

By: Marti and Newton of the
House

and

Howard and David of the
Senate

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11 2nd CONFERENCE COMMITTEE SUBSTITUTE

12 An Act relating to tobacco, nicotine and vapor
13 products; amending 37 O.S. 2011, Section 600.4, as
14 renumbered by Section 28, Chapter 404, O.S.L. 2013,
15 and as last amended by Section 1, Chapter 70, O.S.L.
16 2020 (10A O.S. Supp. 2020, Section 2-8-224), which
17 relates to the purchase or possession of tobacco or
18 vapor products by minors; expanding scope of crimes
19 to include nicotine products; amending 21 O.S. 2011,
20 Sections 1241 and 1242, as last amended by Sections 2
21 and 3, Chapter 70, O.S.L. 2020 (21 O.S. Supp. 2020,
22 Sections 1241 and 1242), which relate to furnishing
23 tobacco to minors and refusing to disclose place of
24 tobacco sales; expanding scope of crimes to include
nicotine products; amending 37 O.S. 2011, Sections
600.2, 600.3, 600.5, 600.6, 600.7 and 600.8, as
renumbered by Sections 171, 172, 173, 174, 175 and
176, Chapter 366, O.S.L. 2016, and as last amended by
Sections 4, 5, 6, 7, 8 and 9, Chapter 70, O.S.L.
2020, 600.10, as amended by Section 10, Chapter 162,
O.S.L. 2014, and as renumbered by Section 178,
Chapter 366, O.S.L. 2016, 600.10A, 600.11 and 600.13,
as renumbered by Sections 179, 180 and 184, Chapter
366, O.S.L. 2016, and as last amended by Sections 10,
11 and 12, Chapter 70, O.S.L. 2020 (63 O.S. Supp.
2020, Sections 1-229.12, 1-229.13, 1-229.15, 1-

1 229.16, 1-229.17, 1-229.18, 1-229.20, 1-229.21, 1-
2 229.22 and 1-229.26), which relate to the Prevention
3 of Youth Access to Tobacco Act; adding certain
4 definition; expanding scope of certain crimes and
5 penalties to include nicotine products; requiring
6 signage at businesses to include nicotine products;
7 updating certain notification requirements to include
8 nicotine products; prohibiting the sale of nicotine
9 products through vending machines; prohibiting the
10 distribution of nicotine product samples; prohibiting
11 public access to nicotine products; expanding
12 enforcement powers of the Alcoholic Beverage Laws
13 Enforcement Commission to include nicotine products;
14 prohibiting the selling, giving or furnishing of
15 materials or devices used for ingesting nicotine
16 products; amending Section 6, Chapter 369, O.S.L.
17 2017, as amended by Section 13, Chapter 70, O.S.L.
18 2020 (63 O.S. Supp. 2020, Section 1-1530), which
19 relates to the prevention of tobacco use by minors;
20 requiring certain agencies to include nicotine use
21 when developing prevention strategies; and declaring
22 an emergency.

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

24 SECTION 1. AMENDATORY 37 O.S. 2011, Section 600.4, as
renumbered by Section 28, Chapter 404, O.S.L. 2013, and as last
amended by Section 1, Chapter 70, O.S.L. 2020 (10A O.S. Supp. 2020,
Section 2-8-224), is amended to read as follows:

Section 2-8-224. A. It is unlawful for a person who is under
twenty-one (21) years of age to purchase, receive, or have in his or
her possession a tobacco product, nicotine product or vapor product,
or to present or offer to any person any purported proof of age
which is false or fraudulent, for the purpose of purchasing or
receiving any tobacco product, nicotine product or vapor product.

1 It shall not be unlawful for an employee under twenty-one (21) years
2 of age to handle tobacco products, nicotine products or vapor
3 products when required in the performance of the employee's duties.

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

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

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

12 Upon failure of the individual to pay the administrative fine
13 within ninety (90) days of the day of the fine, the ABLE Commission
14 shall notify the Department of Public Safety, and the Department
15 shall suspend or not issue a driver license to the individual until
16 proof of payment has been furnished to the Department of Public
17 Safety.

18 C. The ABLE Commission shall establish rules to provide for
19 notification to a parent or guardian of any minor cited for a
20 violation of this section.

21 D. 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 such ordinances
24 shall be the same as provided for in this section, and the

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

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

6 SECTION 2. AMENDATORY 21 O.S. 2011, Section 1241, as
7 last amended by Section 2, Chapter 70, O.S.L. 2020 (21 O.S. Supp.
8 2020, Section 1241), is amended to read as follows:

9 Section 1241. Any person who shall furnish to any person under
10 the age of twenty-one (21) by gift, sale or otherwise any
11 cigarettes, cigarette papers, cigars, bidis, snuff, chewing tobacco,
12 or any other form of tobacco product, nicotine product or vapor
13 ~~products~~ product shall be guilty of a misdemeanor and, upon
14 conviction, shall be punished by a fine in the amount of not less
15 than Twenty-five Dollars (\$25.00) nor more than Two Hundred Dollars
16 (\$200.00) and by imprisonment in the county jail for a term of not
17 less than ten (10) days nor more than ninety (90) days for each
18 offense. For the purposes of this section, the term "vapor product"
19 shall have the same meaning as provided in the Prevention of Youth
20 Access to Tobacco Act.

21 SECTION 3. AMENDATORY 21 O.S. 2011, Section 1242, as
22 last amended by Section 3, Chapter 70, O.S.L. 2020 (21 O.S. Supp.
23 2020, Section 1242), is amended to read as follows:

24

1 Section 1242. Any person under the age of twenty-one (21) being
2 in possession of cigarettes, cigarette papers, cigars, snuff,
3 chewing tobacco, or any other form of tobacco product, nicotine
4 product or vapor products and being by any police officer,
5 constable, juvenile court officer, truant officer, or teacher in any
6 school, asked where and from whom such cigarettes, cigarette papers,
7 cigars, snuff, chewing tobacco, or any other form of tobacco
8 product, nicotine product or vapor products were obtained, who shall
9 refuse to furnish such information, shall be guilty of a misdemeanor
10 and upon conviction thereof before the district court, or any judge
11 of the district court, such minor being of the age of sixteen (16)
12 years or upwards shall be sentenced to pay a fine not exceeding Five
13 Dollars (\$5.00) or to undergo an imprisonment in the jail of the
14 proper county not exceeding five (5) days, or both; if such minor
15 shall be under the age of sixteen (16) years, he or she shall be
16 certified by such magistrate or justice to the juvenile court of the
17 county for such action as the court shall deem proper. For the
18 purposes of this section, the term "vapor product" shall have the
19 same meaning as provided in the Prevention of Youth Access to
20 Tobacco Act.

21 SECTION 4. AMENDATORY 37 O.S. 2011, Section 600.2, as
22 renumbered by Section 171, Chapter 366, O.S.L. 2016, and as last
23 amended by Section 4, Chapter 70, O.S.L. 2020 (63 O.S. Supp. 2020,
24 Section 1-229.12), is amended to read as follows:

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

3 1. "Nicotine product" means any product that contains nicotine
4 extracted or isolated from plants, vegetables, fruit, herbs, weeds,
5 genetically modified organic matter, or that is synthetic in origin
6 and is intended for human consumption; provided, however, this term
7 shall not include products approved by the United States Food and
8 Drug Administration for smoking cessation;

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

11 ~~2.~~ 3. "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 twenty-one (21)
14 years of age or older and contains a photograph or other likeness of
15 the individual and appears on its face to be valid;

16 ~~3.~~ 4. "Sample" means a tobacco product, nicotine product or
17 vapor product distributed to members of the public at no cost for
18 the purpose of promoting the product;

19 ~~4.~~ 5. "Sampling" means the distribution of samples to members
20 of the public in a public place;

21 ~~5.~~ 6. "Tobacco product" means any product that contains tobacco
22 and is intended for human consumption;

23

24

1 ~~6.~~ 7. "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;

4 ~~7.~~ 8. "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.~~ 9. "Vapor product" shall mean noncombustible products, that
10 may 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 5. AMENDATORY 37 O.S. 2011, Section 600.3, as
24 renumbered by Section 172, Chapter 366, O.S.L. 2016, and as last

1 amended by Section 5, Chapter 70, O.S.L. 2020 (63 O.S. Supp. 2020,
2 Section 1-229.13), is amended to read as follows:

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

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

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

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

24

- 1 a. not more than One Hundred Dollars (\$100.00) for the
2 first offense,
- 3 b. not more than Two Hundred Dollars (\$200.00) for the
4 second offense within a two-year period following the
5 first offense,
- 6 c. not more than Three Hundred Dollars (\$300.00) for a
7 third offense within a two-year period following the
8 first offense. In addition to any other penalty, the
9 store's license to sell tobacco products or nicotine
10 products or the store's sales tax permit for a store
11 that is predominantly engaged in the sale of vapor
12 products in which the sale of other products is merely
13 incidental may be suspended for a period not exceeding
14 thirty (30) days, 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 or nicotine products or the store's sales tax permit
20 for a store that is predominantly engaged in the sale
21 of vapor products in which the sale of other products
22 is merely incidental may be suspended for a period not
23 exceeding sixty (60) days.
- 24

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

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

15 a. the individual who purchased or received the tobacco
16 product, nicotine product or vapor product presented a
17 driver license or other government-issued photo
18 identification purporting to establish that such
19 individual was twenty-one (21) years of age or older,
20 or

21 b. the person cited for the violation confirmed the
22 validity of the driver license or other government-
23 issued photo identification presented by such
24

1 individual by performing a transaction scan by means
2 of a transaction scan device.

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

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

1 shall not be deemed in violation of the provisions of the Prevention
2 of Youth Access to Tobacco Act for any acts constituting a violation
3 by any person, when the violation occurs prior to actual employment
4 of the person by the store owner or the violation occurs at a
5 location other than the owner's retail store. For purposes of
6 determining the liability of a person controlling franchises or
7 business operations in multiple locations, for any violations of
8 subsection A or B of this section, each individual franchise or
9 business location 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 an employee of such storeowner has been determined to be in
13 violation of this section by the ABLE Commission or convicted of a
14 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

1 nicotine products or the store's sales tax permit for a store that
2 is predominantly engaged in the sale of vapor products in which the
3 sale of other products is merely incidental until proof of payment
4 has been furnished to the 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 renumbered by Section 173, Chapter 366, O.S.L. 2016, and as last
15 amended by Section 6, Chapter 70, O.S.L. 2020 (63 O.S. Supp. 2020,
16 Section 1-229.15), is amended to read as follows:

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

1 Commission for the purpose of reporting violations of the Prevention
2 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,
10 nicotine products or vapor products at retail.

11 SECTION 7. AMENDATORY 37 O.S. 2011, Section 600.6, as
12 renumbered by Section 174, Chapter 366, O.S.L. 2016, and as last
13 amended by Section 7, Chapter 70, O.S.L. 2020 (63 O.S. Supp. 2020,
14 Section 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, nicotine products or vapor products at
17 retail shall notify each individual employed by that person as a
18 retail sales clerk that state law:

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

20 SECTION 8. AMENDATORY 37 O.S. 2011, Section 600.7, as
21 renumbered by Section 175, Chapter 366, O.S.L. 2016, and as last
22 amended by Section 8, Chapter 70, O.S.L. 2020 (63 O.S. Supp. 2020,
23 Section 1-229.17), is amended to read as follows:

1 Section 1-229.17 It shall be unlawful for any person to sell
2 tobacco products, nicotine products or vapor products through a
3 vending machine unless 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 twenty-one (21) years of age are not admitted.

8 SECTION 9. AMENDATORY 37 O.S. 2011, Section 600.8, as
9 renumbered by Section 176, Chapter 366, O.S.L. 2016, and as last
10 amended by Section 9, Chapter 70, O.S.L. 2020 (63 O.S. Supp. 2020,
11 Section 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, nicotine products, vapor
14 products or product samples to any person under twenty-one (21)
15 years of age.

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

24

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 600.10, as
20 amended by Section 10, Chapter 162, O.S.L. 2014, and as renumbered
21 by Section 178, Chapter 366, O.S.L. 2016 (63 O.S. Supp. 2020,
22 Section 1-229.20), is amended to read as follows:

23 Section 1-229.20 No agency or other political subdivision of
24 the state, including, but not limited to, municipalities, counties

1 or any agency thereof, may adopt any order, ordinance, rule or
2 regulation concerning the sale, purchase, distribution, advertising,
3 sampling, promotion, display, possession, licensing or taxation of
4 tobacco products, nicotine products or vapor products, except as
5 provided in Section 1511 of Title 68 of the Oklahoma Statutes,
6 Section 1-1521 et seq. of ~~Title 63 of the Oklahoma Statutes~~ this
7 title and Section 1247 of Title 21 of the Oklahoma Statutes.
8 Provided, however, nothing in this section shall preclude or preempt
9 any agency or political subdivision from exercising its lawful
10 authority to regulate zoning or land use or to enforce a fire code
11 regulation regulating smoking or tobacco products to the extent that
12 such regulation is substantially similar to nationally recognized
13 standard fire codes.

14 SECTION 11. AMENDATORY 37 O.S. 2011, Section 600.10A, as
15 renumbered by Section 179, Chapter 366, O.S.L. 2016, and as last
16 amended by Section 10, Chapter 70, O.S.L. 2020 (63 O.S. Supp. 2020,
17 Section 1-229.21), is amended to read as follows:

18 Section 1-229.21 A. It is unlawful for any person or retail
19 store to display or offer for sale tobacco products, nicotine
20 products or vapor products in any manner that allows public access
21 to the tobacco products, nicotine products or vapor products without
22 assistance from the person displaying the tobacco products, nicotine
23 products or vapor products or an employee or the owner of the store.
24 The provisions of this subsection shall not apply to retail stores

1 which do not admit into the store persons under twenty-one (21)
2 years of age.

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 Two Hundred Dollars
6 (\$200.00) for each offense.

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

13 SECTION 12. AMENDATORY 37 O.S. 2011, Section 600.11, as
14 renumbered by Section 180, Chapter 366, O.S.L. 2016, and as last
15 amended by Section 11, Chapter 70, O.S.L. 2020 (63 O.S. Supp. 2020,
16 Section 1-229.22), is amended to read as follows:

17 Section 1-229.22 A. The Alcoholic Beverage Laws Enforcement
18 (ABLE) Commission is authorized and empowered to enforce the
19 provisions of Section 1-229.11 et seq. of this title. The ABLE
20 Commission shall enforce those provisions in a manner that can
21 reasonably be expected to reduce the extent to which tobacco
22 products, nicotine products or vapor products are sold or
23 distributed to persons under twenty-one (21) years of age.

24

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

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

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

16 E. Persons under twenty-one (21) years of age may be enlisted
17 by the ABLE Commission, a municipality or town, or a county to
18 assist in compliance checks and enforcement; provided, such persons
19 may be used to test compliance only if written parental consent has
20 been provided and the testing is conducted under the direct
21 supervision of the ABLE Commission or conducted by another law
22 enforcement agency if such agency has given written notice to the
23 ABLE Commission in the manner prescribed by the ABLE Commission.
24 Municipalities which have enacted municipal ordinances in accordance

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

13 F. At the beginning of each month, the Oklahoma Tax Commission,
14 pursuant to Section 205 of Title 68 of the Oklahoma Statutes, shall
15 provide to the ABLE Commission and to each municipality which has
16 ordinances concerning the Prevention of Youth Access to Tobacco Act,
17 the location, name, and address of each licensee licensed to sell
18 tobacco products, nicotine products or vapor products at retail or
19 otherwise furnish tobacco products, nicotine products or vapor
20 products. Upon violation of an employee at a location, the ABLE
21 Commission shall notify the storeowner for that location of the
22 latest and all previous violations when one of their employees has
23 been determined to be in violation of the Prevention of Youth Access
24 to Tobacco Act by the ABLE Commission or convicted of a violation by

1 a municipality. If the ABLE Commission fails to notify the licensee
2 of a violation by an employee, that violation shall not apply
3 against the licensee for the purpose of determining a license
4 suspension pursuant to Section ~~600.3~~ 1-229.13 of this title. For
5 purposes of this subsection, notification shall be deemed given if
6 the ABLE Commission mails, by mail with delivery confirmation, the
7 notification to the address which is on file with the Oklahoma Tax
8 Commission of the licensee or sales tax permit holder of the
9 location at which the violation occurred and the ABLE Commission
10 receives delivery confirmation from the U.S. Postal Service.

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

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

23 SECTION 13. AMENDATORY 37 O.S. 2011, Section 600.13, as
24 renumbered by Section 184, Chapter 366, O.S.L. 2016, and as last

1 amended by Section 12, Chapter 70, O.S.L. 2020 (63 O.S. Supp. 2020,
2 Section 1-229.26), is amended to read as follows:

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

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 One Hundred Dollars
14 (\$100.00) for each offense.

15 SECTION 14. AMENDATORY Section 6, Chapter 369, O.S.L.
16 2017, as amended by Section 13, Chapter 70, O.S.L. 2020 (63 O.S.
17 Supp. 2020, Section 1-1530), is amended to read as follows:

18 Section 1-1530. The State Department of Health and the
19 Department of Mental Health and Substance Abuse Services shall work
20 together to develop new and innovative strategies to prevent tobacco
21 use, nicotine use or use of vapor products by persons under the age
22 of twenty-one (21).

23 SECTION 15. It being immediately necessary for the preservation
24 of the public peace, health or safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

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