

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 59th Legislature (2023)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2238

By: Ford of the House

and

Montgomery of the Senate

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10 COMMITTEE SUBSTITUTE

11 An Act relating to public health; amending 63 O.S.
12 2021, Section 1-229.35, which relates to vapor
13 product reporting; modifying compliance deadlines;
14 and declaring an emergency.

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

17 SECTION 1. AMENDATORY 63 O.S. 2021, Section 1-229.35, as
18 amended by Section 1, Chapter 95, O.S.L. 2022 (63 O.S. Supp. 2022,
19 Section 1-229.35), is amended to read as follows:

20 Section 1-229.35 A. Beginning July 1, ~~2023~~ 2024, every
21 manufacturer of a vapor product that is sold or intended to be sold
22 in this state, whether directly or through a distributor, retailer,
23 or similar intermediary or intermediaries, shall execute and deliver
24 an attestation under penalty of perjury to the Oklahoma Alcoholic

1 Beverage Laws Enforcement (ABLE) Commission certifying that, as of
2 the date of such attestation:

3 1. The vapor product was available for purchase in the United
4 States as of August 8, 2016, and the manufacturer has applied for a
5 marketing order for the vapor product by submitting a Premarket
6 Tobacco Product Application on or before September 9, 2020, to the
7 United States Food and Drug Administration (FDA); or

8 2. The manufacturer has received a marketing order or other
9 authorization for the vapor product from the FDA pursuant to Section
10 387j of Title 21 of the United States Code.

11 B. The manufacturer shall notify the ABLE Commission within
12 thirty (30) days of any material change to the attestation,
13 including whether the FDA has issued or not issued a market order or
14 other authorization or has ordered the manufacturer to remove the
15 vapor product, either temporarily or permanently, from the United
16 States market.

17 C. The ABLE Commission shall develop a directory listing all of
18 the manufacturers that have provided attestations that comply with
19 subsection A of this section and all vapor products that are listed
20 in such attestations. The ABLE Commission shall:

21 1. Make the directory available for public inspection on its
22 website on or before October 1, ~~2023~~ 2024; and

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1 2. Update the directory as necessary to correct mistakes and to
2 add or remove manufacturers or vapor products to maintain the
3 directory in conformity with the requirements of this section.

4 D. It shall be unlawful for any person, directly or indirectly,
5 to knowingly manufacture, distribute, sell, barter, or furnish in
6 this state any vapor product that is not included in the directory.

7 SECTION 2. It being immediately necessary for the preservation
8 of the public peace, health or safety, an emergency is hereby
9 declared to exist, by reason whereof this act shall take effect and
10 be in full force from and after its passage and approval.

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12 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 03/01/2023 - DO PASS,
13 As Amended and Coauthored.
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