

1 **SENATE FLOOR VERSION**

February 24, 2025

2 **AS AMENDED**

3 SENATE BILL NO. 936

By: Dossett

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5
6 **[tobacco and vapor products - fines - effective**
7 **date]**

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

10 SECTION 1. AMENDATORY 63 O.S. 2021, Section 1-229.13, as
11 amended by Section 34, Chapter 310, O.S.L. 2023 (63 O.S. Supp. 2024,
12 Section 1-229.13), is amended to read as follows:

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

21 B. A person engaged in the sale or distribution of tobacco
22 products, nicotine products or vapor products shall demand proof of
23 age from a prospective purchaser or recipient if an ordinary person
24

1 would conclude on the basis of appearance that the prospective
2 purchaser may be under twenty-one (21) years of age.

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

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

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

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

16 c. not more than Three Hundred Dollars (\$300.00) to the
17 employee and not more than One Thousand Dollars

18 (\$1,000.00) to the store owner for a third offense
19 within a two-year period following the first offense.

20 In addition to any other penalty, the store's license
21 to sell tobacco products or nicotine products or the

22 store's sales tax permit for a store that is

23 predominantly engaged in the sale of vapor products in

24 which the sale of other products is merely incidental

1 may be suspended for a period not exceeding thirty
2 (30) days, or

3 d. not more than Three Hundred Dollars (\$300.00) to the
4 employee and not more than One Thousand Five Hundred
5 Dollars (\$1,500.00) for a fourth or subsequent offense
6 within a two-year period following the first offense.
7 In addition to any other penalty, the store's license
8 to sell tobacco products or nicotine products or the
9 store's sales tax permit for a store that is
10 predominantly engaged in the sale of vapor products in
11 which the sale of other products is merely incidental
12 may be suspended for a period not exceeding sixty (60)
13 days.

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

22 3. Proof that the defendant demanded, was shown, and reasonably
23 relied upon proof of age shall be a defense to any action brought
24 pursuant to this section. A person cited for violating this section

1 shall be deemed to have reasonably relied upon proof of age, and
2 such person shall not be found guilty of the violation if such
3 person proves that:

4 a. the individual who purchased or received the tobacco
5 product, nicotine product or vapor product presented a
6 driver license or other government-issued photo
7 identification purporting to establish that such
8 individual was twenty-one (21) years of age or older,
9 or

10 b. the person cited for the violation confirmed the
11 validity of the driver license or other government-
12 issued photo identification presented by such
13 individual by performing a transaction scan by means
14 of a transaction scan device.

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

23 D. If the sale is made by an employee of the owner of a store
24 at which tobacco products, nicotine products or vapor products are

1 sold at retail, the employee shall be guilty of the violation and
2 both the employee and the store owner shall be subject to the fine.
3 Each violation by any employee of an owner of a store licensed to
4 sell tobacco products or nicotine products or permitted to sell
5 vapor products shall be deemed a violation against the owner for
6 purposes of a license suspension pursuant to subsection C of this
7 section. Each violation by an employee of a store predominantly
8 engaged in the sale of vapor products in which the sale of other
9 products is merely incidental shall be deemed a violation against
10 the owner for purposes of a sales tax permit suspension pursuant to
11 the provisions of subsection C of this section. An owner of a store
12 licensed to sell tobacco products or nicotine products or permitted
13 to sell vapor products shall not be deemed in violation of the
14 provisions of the Prevention of Youth Access to Tobacco Act for any
15 acts constituting a violation by any person, when the violation
16 occurs prior to actual employment of the person by the ~~storeowner~~
17 store owner or the violation occurs at a location other than the
18 owner's retail store. For purposes of determining the liability of
19 a person controlling franchises or business operations in multiple
20 locations, for any violations of subsection A or B of this section,
21 each individual franchise or business location shall be deemed a
22 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 store owners when an employee of such ~~storeowner~~ store owner has
2 been determined to be in violation of this section by the ABLE
3 Commission or convicted of a violation 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 Service Oklahoma, and Service
7 Oklahoma shall suspend or not issue a driver license to the employee
8 until proof of payment has been furnished to Service Oklahoma.

9 2. Upon failure of a ~~storeowner~~ store owner to pay the
10 administrative fine within ninety (90) days of the assessment of the
11 fine, the ABLE Commission shall notify the Tax Commission, and the
12 Tax Commission shall suspend the store's license to sell tobacco
13 products or nicotine products or the store's sales tax permit for a
14 store that is predominantly engaged in the sale of vapor products in
15 which the sale of other products is merely incidental until proof of
16 payment has been furnished to the Oklahoma 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 2. This act shall become effective November 1, 2025.

2 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES
3 February 24, 2025 - DO PASS AS AMENDED
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