

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 HOUSE BILL 1896

By: Cox

4
5 AS INTRODUCED

6 An Act relating to tobacco; amending 37 O.S. 2001,
7 Section 600.8, as amended by Section 4, Chapter 253,
8 O.S.L. 2004 (37 O.S. Supp 2008, Section 600.8), which
9 relates to the distribution of certain tobacco
10 products; modifying and expanding prohibited acts;
11 defining terms; prohibiting reduction of certain
12 costs; providing certain exceptions; amending 47 O.S.
13 2001, Section 6-301, as last amended by Section 8,
14 Chapter 149, O.S.L. 2004 (47 O.S. Supp. 2008, Section
15 6-301), which relates to unlawful uses of driver
16 licenses and identification cards; prohibiting
17 certain acts for tobacco-related purpose; and
18 providing an effective date.

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

20 SECTION 1. AMENDATORY 37 O.S. 2001, Section 600.8, as
21 amended by Section 4, Chapter 253, O.S.L. 2004 (37 O.S. Supp. 2008,
22 Section 600.8), is amended to read as follows:

23 Section 600.8 A. 1. It shall be unlawful for any person or
24 retailer to sell or distribute any tobacco products or product
samples ~~to any person under eighteen (18) years of age for~~
commercial purposes for free or at less than basic cost.

2. It shall be unlawful for any person or retailer to
distribute any coupon or other item redeemable by buyers in this

1 state to obtain any tobacco products or product samples for free or
2 at less than basic cost.

3 3. For purposes of this subsection:

4 a. "at less than basic cost" means free of charge, at a
5 nominal or discounted price, or at any other price
6 less than one hundred ten percent (110%) of the
7 seller's or distributor's cost plus the full value of
8 any stamps or taxes required to be placed on the
9 tobacco products by federal or state law not already
10 included in the seller's or distributor's cost,

11 b. "coupon" means any card, paper, note, form, statement,
12 ticket or other issue distributed for commercial or
13 promotional purposes to be later surrendered by the
14 bearer so as to receive an article, service or
15 accommodation without charge or at a discount price,
16 and

17 c. "seller's or distributor's cost" means the actual
18 price paid by the seller or distributor to obtain the
19 product, or if the product was obtained illegally, the
20 actual price the seller or distributor would have paid
21 to obtain the product if it had been obtained legally.

22 4. The basic cost or the seller's or distributor's cost shall
23 not be reduced because of any discounts, rebates, paybacks,
24 promotions, or other benefits obtained by the seller or distributor

1 relating to its purchases or sales or distributions of tobacco
2 products or product samples.

3 5. Common carriers and other delivery service businesses
4 operating in the normal course of business shall not be subject to
5 any of the requirements, prohibitions, or penalties in this
6 subsection except to the extent that they knowingly and
7 intentionally support or participate in another person's violation
8 of this subsection.

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

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

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

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

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

23 D. Upon failure of any person to pay an administrative fine
24 within ninety (90) days of the assessment of the fine, the ABLE

1 Commission shall notify the Department of Public Safety, and the
2 Department shall suspend or not issue a driver license to the person
3 until proof of payment has been furnished to the Department of
4 Public Safety.

5 E. 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 SECTION 2. AMENDATORY 47 O.S. 2001, Section 6-301, as
12 last amended by Section 8, Chapter 149, O.S.L. 2004 (47 O.S. Supp.
13 2008, Section 6-301), is amended to read as follows:

14 Section 6-301. It shall be unlawful for any person to commit
15 any of the acts specified in paragraph 1 ~~or~~, 2, 3 or 4 of this
16 section in relation to an Oklahoma driver license or identification
17 card authorized to be issued by the Department of Public Safety
18 pursuant to the provisions of Sections 6-101 through 6-309 of this
19 title or any driver license or other evidence of driving privilege
20 or identification card authorized to be issued by the state of
21 origin.

22 1. It is a misdemeanor for any licensee:

23 a. to display or cause or permit to be displayed one's
24 own license after such license has been suspended,

1 revoked or canceled or to possess one's own license
2 after having received notice of its suspension,
3 revocation, or cancellation,

4 b. to lend one's own license or identification card to
5 any other person or knowingly permit the use thereof
6 by another,

7 c. to display or cause or permit to be displayed or to
8 possess a license or identification card issued to
9 oneself which bears altered information concerning the
10 date of birth, expiration date, sex, height, eye
11 color, weight or license or card number,

12 d. to fail or refuse to surrender to the Department upon
13 its lawful demand any license or identification card
14 which has been suspended, revoked or canceled,

15 e. to permit any unlawful use of a license or
16 identification card issued to oneself,

17 f. to do any act forbidden or fail to perform any act
18 required by this chapter, excepting those acts as
19 provided in paragraph 2 3 of this section,

20 g. to display or represent as one's own, any license or
21 identification card not issued to such person, unless
22 under conditions provided in subparagraph e of
23 paragraph 2 3 of this section, or

1 h. to add to, delete from, alter, or deface the required
2 information on a driver license or identification
3 card.

4 2. It is a misdemeanor for any person:

5 a. to electronically scan information contained on a
6 driver license or identification card,

7 b. to compile or maintain a database of information
8 electronically scanned from a driver license or
9 identification card, or

10 c. to purchase, sell, trade, or otherwise disseminate
11 information electronically scanned from a driver
12 license or identification card,

13 for the direct or indirect purpose of marketing, advertising, or
14 soliciting the purchase or use of any tobacco product, including,
15 without limitation, distribution of samples of any tobacco product.

16 This paragraph shall not prohibit any person or entity, public or
17 private, from acquiring or verifying information from a driver
18 license or identification card for any purpose not otherwise
19 prohibited by law.

20 3. It is a felony for any person:

21 a. to create, publish or otherwise manufacture an
22 Oklahoma or other state license or identification card
23 or facsimile thereof, or to create, manufacture or
24 possess an engraved plate or other such device, card,

1 laminate, digital image or file, or software for the
2 printing of an Oklahoma or other state license or
3 identification card or facsimile thereof, except as
4 authorized pursuant to this title,

5 b. to display or cause or permit to be displayed or to
6 knowingly possess any state counterfeit or fictitious
7 license or identification card,

8 c. to display or cause to be displayed or to knowingly
9 possess any state license or identification card
10 bearing a fictitious or forged name or signature,

11 d. to display or cause to be displayed or to knowingly
12 possess any state license or identification card
13 bearing the photograph of any person, other than the
14 person named thereon as licensee,

15 e. to display or represent as one's own, any license or
16 identification card not issued to ~~him~~ the person, for
17 the purpose of committing a fraud in any commercial
18 transaction or to mislead a peace officer in the
19 performance of ~~his~~ the officer's duties, or

20 f. to use a false or fictitious name in any application
21 for a license or identification card or to knowingly
22 make a false statement or to knowingly conceal a
23 material fact or otherwise commit a fraud in any such
24 application.

1 ~~3.~~ 4. It is a felony for any employee or person authorized to
2 issue or approve the issuance of licenses or identification cards
3 under this title to knowingly issue or attempt to issue a license or
4 identification card or to knowingly give approval for, cause, or
5 attempt to cause a license or identification card to be issued:

- 6 a. to a person not entitled thereto,
- 7 b. bearing erroneous information thereon, or
- 8 c. bearing the photograph of a person other than the
9 person named thereon.

10 Such conduct shall be grounds for termination of employment of the
11 employee.

12 ~~4.~~ 5. The violation of any of the provisions of paragraph 1 or
13 2 of this section shall constitute a misdemeanor and shall, upon
14 conviction thereof, be punishable by a fine of not less than
15 Twenty-five Dollars (\$25.00), nor more than Two Hundred Dollars
16 (\$200.00); the violation of any of the provisions of paragraph ~~2~~ 3
17 or ~~3~~ 4 of this section shall constitute a felony and shall, upon
18 conviction thereof, be punishable by a fine not exceeding Ten
19 Thousand Dollars (\$10,000.00) or a term of imprisonment in the State
20 Penitentiary not to exceed seven (7) years, or by both such fine and
21 imprisonment.

22 ~~5.~~ 6. Notwithstanding any provision of this section, the
23 Commissioner of the Department of Public Safety may, upon the
24 request of the chief administrator of a law enforcement, military,

1 or intelligence agency, authorize the issuance to and display, and
2 possession by a person of a license which would otherwise be a
3 violation of this section, for the sole purpose of aiding in a
4 criminal investigation or a military or intelligence operation.
5 While acting pursuant to such authorization by the Commissioner,
6 such person shall not be prosecuted for a violation under this
7 section. Upon termination of such investigation or operation or
8 upon request of the Commissioner, the chief administrator shall
9 forthwith cause such license to be returned to the Commissioner.

10 SECTION 3. This act shall become effective November 1, 2009.

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