

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2904 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Pat Ownbey _____

Reading Clerk

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 PROPOSED COMMITTEE
4 SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2904

By: Ownbey

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8 PROPOSED COMMITTEE SUBSTITUTE

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10 An Act relating to tobacco products; amending 37 O.S.
11 2011, Section 600.2, which relates to definitions;
12 expanding certain definition; amending 37 O.S. 2011,
13 Section 600.4, as renumbered by Section 28, Chapter
14 404, O.S.L. 2013 (10A O.S. Supp. 2013, Section 2-8-
15 224), which relates to purchase or possession of
16 tobacco products by minors; providing definition; and
17 providing an effective date.

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

19 SECTION 1. AMENDATORY 37 O.S. 2011, Section 600.2, is
20 amended to read as follows:

21 Section 600.2 As used in the Prevention of Youth Access to
22 Tobacco Act:

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

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

6 3. "Sample" means a tobacco product distributed to members of
7 the public at no cost for the purpose of promoting the product;

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

10 5. "Tobacco product" means any product that ~~contains~~ is made
11 from or derived from tobacco or contains nicotine or a similar
12 substance, and is intended for human consumption or is likely to be
13 consumed, whether smoked, heated, chewed, absorbed, dissolved,
14 inhaled or ingested by any other means, including, but not limited
15 to, a cigarette, cigar, pipe tobacco, chewing tobacco, snuff, snus,
16 or an electronic smoking device. "Tobacco product" shall not
17 include any product specifically approved by the United States Food
18 and Drug Administration for sale as a tobacco cessation product that
19 is being marketed and sold solely for the approved purpose.

20 Provided, this definition shall not be used to subject products to
21 taxation under Section 301 et seq. or 401 et seq. of Title 68 of the
22 Oklahoma Statutes unless specifically provided in such acts;

23 6. "Electronic smoking device" means any product containing or
24 delivering nicotine or any other similar substances intended for

1 human consumption that can be used by a person to simulate smoking
2 through inhalation of vapor and aerosol from the product.

3 "Electronic smoking device" includes any component part of such
4 product whether or not sold separately and does not include any
5 product that has been approved by the United States Food and Drug
6 Administration for sale as a tobacco cessation product and is being
7 marketed and sold solely for the approved purpose;

8 7. "Transaction scan" means the process by which a seller
9 checks, by means of a transaction scan device, the validity of a
10 driver license or other government-issued photo identification; and

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

16 SECTION 2. AMENDATORY 37 O.S. 2011, Section 600.4, as
17 renumbered by Section 28, Chapter 404, O.S.L. 2013 (10A O.S. Supp.
18 2013, Section 2-8-224), is amended to read as follows:

19 Section 2-8-224. A. It is unlawful for a person who is under
20 eighteen (18) years of age to purchase, receive, or have in their
21 possession a tobacco product, or to present or offer to any person
22 any purported proof of age which is false or fraudulent, for the
23 purpose of purchasing or receiving any tobacco product. It shall
24 not be unlawful for an employee under eighteen (18) years of age to

1 handle tobacco products when required in the performance of the
2 employee's duties.

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:

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

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

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

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

20 D. Cities and towns may enact and municipal police officers may
21 enforce ordinances prohibiting and penalizing conduct under
22 provisions of this section, but the provisions of such ordinances
23 shall be the same as provided for in this section, and the
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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, "tobacco product" means
4 any product that is made from or derived from tobacco or contains
5 nicotine or a similar substance, and is intended for human
6 consumption or is likely to be consumed, whether smoked, heated,
7 chewed, absorbed, dissolved, inhaled or ingested by any other means,
8 including, but not limited to, a cigarette, cigar, pipe tobacco,
9 chewing tobacco, snuff, snus or an electronic smoking device.

10 "Tobacco product" shall not include any product specifically
11 approved by the United States Food and Drug Administration for sale
12 as a tobacco cessation product that is being marketed and sold
13 solely for the approved purpose. For the purposes of this
14 subsection, "electronic smoking device" means any product containing
15 or delivering nicotine or any other similar substances intended for
16 human consumption that can be used by a person to simulate smoking
17 through inhalation of vapor and aerosol from the product.

18 "Electronic smoking device" includes any component part of such
19 product whether or not sold separately and does not include any
20 product that has been approved by the United States Food and Drug
21 Administration for sale as a tobacco cessation product and is being
22 marketed and sold solely for the approved purpose. Provided, these
23 definitions shall not be used to subject products to taxation under

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1 Section 301 et seq. or 401 et seq. of Title 68 of the Oklahoma
2 Statutes unless specifically provided in such acts.

3 SECTION 3. This act shall become effective November 1, 2014.

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5 54-2-10208 AM 02/19/14

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