

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 54th Legislature (2014)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 2904

By: Ownbey, Denney, Sears and  
Cox of the House

7 and

8 Simpson of the Senate  
9

10  
11 COMMITTEE SUBSTITUTE

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

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

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

23 Section 600.2 As used in the Prevention of Youth Access to  
24 Tobacco Act:

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

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

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

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

12 5. "Tobacco product" means any product that ~~contains~~ is made  
13 from or derived from tobacco or contains nicotine or a similar  
14 substance, and is intended for human consumption or is likely to be  
15 consumed, whether smoked, heated, chewed, absorbed, dissolved,  
16 inhaled or ingested by any other means, including, but not limited  
17 to, a cigarette, cigar, pipe tobacco, chewing tobacco, snuff, snus,  
18 or an electronic smoking device. "Tobacco product" shall not  
19 include any product specifically approved by the United States Food  
20 and Drug Administration for sale as a tobacco cessation product that  
21 is being marketed and sold solely for the approved purpose.  
22 Provided, this definition shall not be used to subject products to  
23 taxation under Section 301 et seq. or 401 et seq. of Title 68 of the  
24 Oklahoma Statutes unless specifically provided in such acts;

1       6. "Electronic smoking device" means any product containing or  
2 delivering nicotine or any other similar substances intended for  
3 human consumption that can be used by a person to simulate smoking  
4 through inhalation of vapor and aerosol from the product.

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

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

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

18       SECTION 2.        AMENDATORY        37 O.S. 2011, Section 600.4, as  
19 renumbered by Section 28, Chapter 404, O.S.L. 2013 (10A O.S. Supp.  
20 2013, Section 2-8-224), is amended to read as follows:

21       Section 2-8-224. A. It is unlawful for a person who is under  
22 eighteen (18) years of age to purchase, receive, or have in their  
23 possession a tobacco product, or to present or offer to any person  
24 any purported proof of age which is false or fraudulent, for the

UNDERLINED language denotes Amendments to present Statutes.  
**BOLD FACE CAPITALIZED** language denotes Committee Amendments.  
~~Strike thru~~ language denotes deletion from present Statutes.

1 purpose of purchasing or receiving any tobacco product. It shall  
2 not be unlawful for an employee under eighteen (18) years of age to  
3 handle tobacco products when required in the performance of the  
4 employee's duties.

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

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

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

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

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

22 D. Cities and towns may enact and municipal police officers may  
23 enforce ordinances prohibiting and penalizing conduct under  
24 provisions of this section, but the provisions of such ordinances

1 shall be the same as provided for in this section, and the  
2 enforcement provisions under such ordinances shall not be more  
3 stringent than those of this section.

4 E. For the purposes of this section, "tobacco product" means  
5 any product that is made from or derived from tobacco or contains  
6 nicotine or a similar substance, and is intended for human  
7 consumption or is likely to be consumed, whether smoked, heated,  
8 chewed, absorbed, dissolved, inhaled or ingested by any other means,  
9 including, but not limited to, a cigarette, cigar, pipe tobacco,  
10 chewing tobacco, snuff, snus or an electronic smoking device.

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

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

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 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 02/26/2014 - DO  
6 PASS, As Amended and Coauthored.  
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