

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. 3104

By: Jackson and Echols

7  
8                                   COMMITTEE SUBSTITUTE

9                   An Act relating to tobacco products; amending 21 O.S.  
10                   2011, Section 1241, which relates to furnishing  
11                   certain products to minors; amending 21 O.S. 2011,  
12                   Section 1242, which relates to certain refusals;  
13                   amending 37 O.S. 2011, Section 600.2, which relates  
14                   to definitions; amending 37 O.S. 2011, Section 600.3,  
15                   which relates to furnishing of tobacco products;  
16                   amending 37 O.S. 2011, Section 600.4, as renumbered  
17                   by Section 28, Chapter 404, O.S.L. 2013 (10A O.S.  
18                   Supp. 2013, Section 2-8-224), which relates to  
19                   purchase and receipt of tobacco products; amending 37  
20                   O.S. 2011, Section 600.5, which relates to signs in  
21                   retail establishments; amending 37 O.S. 2011, Section  
22                   600.6, which relates to notice to retail employees;  
23                   amending 37 O.S. 2011, Section 600.7, which relates  
24                   to restrictions on vending machine sales; amending 37  
O.S. 2011, Section 600.8, which relates to  
distribution of tobacco product samples; amending 37  
O.S. 2011, Section 600.10, which relates to  
regulation by political subdivisions; amending 37  
O.S. 2011, Section 600.10A, which relates to display  
or sale of tobacco products; amending 37 O.S. 2011,  
Section 600.11, which relates to enforcement of  
certain acts; amending 37 O.S. 2011, Section 600.13,  
which relates to prohibition of certain product  
transfers; providing definitions; adding alternative  
nicotine products and vapor products to certain laws  
relating to tobacco products; and providing an  
effective date.

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

2 SECTION 1. AMENDATORY 21 O.S. 2011, Section 1241, is  
3 amended to read as follows:

4 Section 1241. Any person who shall furnish to any minor by  
5 gift, sale or otherwise any cigarettes, cigarette papers, cigars,  
6 bidis, snuff, chewing tobacco, alternative nicotine products, vapor  
7 products or any other form of tobacco product shall be guilty of a  
8 misdemeanor and, upon conviction, shall be punished by a fine in the  
9 amount of not less than Twenty-five Dollars (\$25.00) nor more than  
10 Two Hundred Dollars (\$200.00) and by imprisonment in the county jail  
11 for a term of not less than ten (10) days nor more than ninety (90)  
12 days for each offense. For the purposes of this section, the terms  
13 "alternative nicotine product" and "vapor product" shall have the  
14 same meanings as provided in the Prevention of Youth Access to  
15 Tobacco Act.

16 SECTION 2. AMENDATORY 21 O.S. 2011, Section 1242, is  
17 amended to read as follows:

18 Section 1242. Any minor being in possession of cigarettes,  
19 cigarette papers, cigars, snuff, chewing tobacco, alternative  
20 nicotine products, vapor products or any other form of tobacco  
21 product and being by any police officer, constable, juvenile court  
22 officer, truant officer, or teacher in any school, asked where and  
23 from whom such cigarettes, cigarette papers, cigars, snuff, chewing  
24 tobacco, alternative nicotine products, vapor products or any other

1 form of tobacco product were obtained, who shall refuse to furnish  
2 such information, shall be guilty of a misdemeanor and upon  
3 conviction thereof before the district court, or any judge of the  
4 district court, such minor being of the age of sixteen (16) years or  
5 upwards shall be sentenced to pay a fine not exceeding Five Dollars  
6 (\$5.00) or to undergo an imprisonment in the jail of the proper  
7 county not exceeding five (5) days, or both; if such minor shall be  
8 under the age of sixteen (16) years, he or she shall be certified by  
9 such magistrate or justice to the juvenile court of the county for  
10 such action as ~~said~~ the court shall deem proper. For the purposes  
11 of this section, the terms "alternative nicotine product" and "vapor  
12 product" shall have the same meanings as provided in the Prevention  
13 of Youth Access to Tobacco Act.

14 SECTION 3. AMENDATORY 37 O.S. 2011, Section 600.2, is  
15 amended to read as follows:

16 Section 600.2 As used in the Prevention of Youth Access to  
17 Tobacco Act:

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

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

1 3. "Sample" means a tobacco product, vapor product or  
2 alternative nicotine product distributed to members of the public at  
3 no cost for the purpose of promoting the product;

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

6 5. "Alternative nicotine product" shall mean any noncombustible  
7 product containing nicotine that is intended for human consumption,  
8 whether chewed, absorbed, dissolved or ingested by any other means.

9 Alternative nicotine products do not include any vapor product,  
10 tobacco products as defined by paragraph 6 of this section or any  
11 product regulated as a drug or device by the United States Food and  
12 Drug Administration under Chapter V of the Food, Drug and Cosmetic  
13 Act;

14 6. "Tobacco product" means any product that contains tobacco  
15 and is intended for human consumption, but does not include  
16 alternative nicotine products or vapor products;

17 ~~6.~~ 7. "Transaction scan" means the process by which a seller  
18 checks, by means of a transaction scan device, the validity of a  
19 driver license or other government-issued photo identification; ~~and~~

20 ~~7.~~ 8. "Transaction scan device" means any commercial device or  
21 combination of devices used at a point of sale or entry that is  
22 capable of deciphering in an electronically readable format the  
23 information encoded on the magnetic strip or bar code of a driver  
24 license or other government-issued photo identification; and

1        9. "Vapor product" shall mean noncombustible products, that may  
2 or may not contain nicotine, that employ a mechanical heating  
3 element, battery, electronic circuit, or other mechanism, regardless  
4 of shape or size, that can be used to produce a vapor in a solution  
5 or other form. Vapor products shall include any vapor cartridge or  
6 other container with or without nicotine or other form that is  
7 intended to be used with an electronic cigarette, electronic cigar,  
8 electronic cigarillo, electronic pipe, or similar product or device  
9 and any vapor cartridge or other container of a solution, that may  
10 or may not contain nicotine, that is intended to be used with or in  
11 an electronic cigarette, electronic cigar, electronic cigarillo or  
12 electronic device. Vapor products do not include any products  
13 regulated by the United States Food and Drug Administration under  
14 Chapter V of the Food, Drug, and Cosmetic Act.

15        SECTION 4.        AMENDATORY        37 O.S. 2011, Section 600.3, is  
16 amended to read as follows:

17        Section 600.3 A. It is unlawful for any person to sell, give  
18 or furnish in any manner any tobacco product, alternative nicotine  
19 product or vapor product to another person who is under eighteen  
20 (18) years of age, or to purchase in any manner a tobacco product,  
21 alternative nicotine product or vapor product on behalf of any such  
22 person. It shall not be unlawful for an employee under eighteen  
23 (18) years of age to handle tobacco products, alternative nicotine  
24

1 products or vapor products when required in the performance of the  
2 employee's duties.

3 B. A person engaged in the sale or distribution of tobacco  
4 products, alternative nicotine products or vapor products shall  
5 demand proof of age from a prospective purchaser or recipient if an  
6 ordinary person would conclude on the basis of appearance that the  
7 prospective purchaser may be under eighteen (18) years of age.

8 If an individual engaged in the sale or distribution of tobacco  
9 products, alternative nicotine products or vapor products has  
10 demanded proof of age from a prospective purchaser or recipient who  
11 is not under eighteen (18) years of age, the failure to subsequently  
12 require proof of age shall not constitute a violation of ~~subsection~~  
13 ~~B of this section~~ this subsection.

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

- 17 a. not more than One Hundred Dollars (\$100.00) for the  
18 first offense,
- 19 b. not more than Two Hundred Dollars (\$200.00) for the  
20 second offense within a two-year period following the  
21 first offense,
- 22 c. not more than Three Hundred Dollars (\$300.00) for a  
23 third offense within a two-year period following the  
24 first offense. In addition to any other penalty, the

1 store's license to sell tobacco products may be  
2 suspended for a period not exceeding thirty (30) days,  
3 or

4 d. not more than Three Hundred Dollars (\$300.00) for a  
5 fourth or subsequent offense within a two-year period  
6 following the first offense. In addition to any other  
7 penalty, the store's license to sell tobacco products  
8 may be suspended for a period not exceeding sixty (60)  
9 days.

10 2. When it has been determined that a penalty shall include a  
11 license suspension, the ABLE Commission shall notify the Oklahoma  
12 Tax Commission, and the Tax Commission shall suspend the store's  
13 license to sell tobacco products at the location where the offense  
14 occurred for the period of time prescribed by the ABLE Commission.

15 3. Proof that the defendant demanded, was shown, and reasonably  
16 relied upon proof of age shall be a defense to any action brought  
17 pursuant to this section. A person cited for violating this section  
18 shall be deemed to have reasonably relied upon proof of age, and  
19 such person shall not be found guilty of ~~such~~ the violation if such  
20 person proves that:

21 a. the individual who purchased or received the tobacco  
22 product, alternative nicotine product or vapor product  
23 presented a driver license or other government-issued  
24 photo identification purporting to establish that such

1 individual was eighteen (18) years of age or older,  
2 and

3 b. the person cited for the violation confirmed the  
4 validity of the driver license or other government-  
5 issued photo identification presented by such  
6 individual by performing a transaction scan by means  
7 of a transaction scan device.

8 Provided, that this defense shall not relieve from liability any  
9 person cited for a violation of this section if ~~such~~ the person  
10 failed to exercise reasonable diligence to determine whether the  
11 physical description and picture appearing on the driver license or  
12 other government-issued photo identification was that of the  
13 individual who presented it. The availability of the defense  
14 described in this subsection does not affect the availability of any  
15 other defense under any other provision of law.

16 D. If the sale is made by an employee of the owner of a store  
17 at which tobacco products, alternative nicotine products or vapor  
18 products are sold at retail, the employee shall be guilty of the  
19 violation and shall be subject to the fine. Each violation by any  
20 employee of an owner of a store licensed to sell tobacco products or  
21 permitted to sell alternative nicotine products or vapor products  
22 shall be deemed a violation against the owner for purposes of a  
23 license suspension pursuant to subsection C of this section. Each  
24 violation by an employee of a store that predominately sells

1 alternative nicotine products or vapor products shall be deemed a  
2 violation against the owner for purposes of a sales tax permit  
3 suspension pursuant to the provisions of subsection C of this  
4 section. An owner of a store licensed to sell tobacco products or  
5 permitted to sell alternative nicotine products or vapor products  
6 shall not be deemed in violation of the provisions of the Prevention  
7 of Youth Access to Tobacco Act for any acts constituting a violation  
8 by any person, when the violation occurs prior to actual employment  
9 of the person by the store owner or the violation occurs at a  
10 location other than the owner's retail store. For purposes of  
11 determining the liability of a person controlling franchises or  
12 business operations in multiple locations, for any violations of  
13 subsection A or B of this section, each individual franchise or  
14 business location shall be deemed a separate entity.

15 E. On or before December 15, 1997, the ABLE Commission shall  
16 adopt rules establishing a method of notification of storeowners  
17 when one of their employees has been determined to be in violation  
18 of this section by the ABLE Commission or convicted of a violation  
19 by a municipality.

20 F. 1. Upon failure of the employee to pay the administrative  
21 fine within ninety (90) days of the day of the assessment of such  
22 fine, the ABLE Commission shall notify the Department of Public  
23 Safety, and the Department shall suspend or not issue a driver  
24

1 license to the employee until proof of payment has been furnished to  
2 the Department of Public Safety.

3 2. Upon failure of a storeowner to pay the administrative fine  
4 within ninety (90) days of the assessment of the fine, the ABLE  
5 Commission shall notify the Tax Commission, and the Tax Commission  
6 shall suspend the store's license to sell tobacco products or the  
7 store's sales tax permit in cases of offenses relating to  
8 alternative nicotine products or vapor products until proof of  
9 payment has been furnished to the Oklahoma Tax Commission.

10 G. Cities and towns may enact and municipal police officers may  
11 enforce ordinances prohibiting and penalizing conduct under  
12 provisions of this section, but the provisions of municipal  
13 ordinances shall be the same as provided for in this section, and  
14 the penalty provisions under such ordinances shall not be more  
15 stringent than those of this section.

16 H. County sheriffs may enforce the provisions of the Prevention  
17 of Youth Access to Tobacco Act.

18 SECTION 5. 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 his or her possession a tobacco product, alternative nicotine  
24 product or vapor product, or to present or offer to any person any

1 purported proof of age which is false or fraudulent, for the purpose  
2 of purchasing or receiving any tobacco product, alternative nicotine  
3 product or vapor product. It shall not be unlawful for an employee  
4 under eighteen (18) years of age to handle tobacco products,  
5 alternative nicotine products or vapor products when required in the  
6 performance of the employee's duties.

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

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

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

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

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

24

1 D. Cities and towns may enact and municipal police officers may  
2 enforce ordinances prohibiting and penalizing conduct under  
3 provisions of this section, but the provisions of such ordinances  
4 shall be the same as provided for in this section, and the  
5 enforcement provisions under such ordinances shall not be more  
6 stringent than those of this section.

7 E. For the purposes of this section, the terms "alternative  
8 nicotine product" and "vapor products" shall have the same meanings  
9 as provided in the Prevention of Youth Access to Tobacco Act.

10 SECTION 6. AMENDATORY 37 O.S. 2011, Section 600.5, is  
11 amended to read as follows:

12 Section 600.5 A. Every person who sells or displays tobacco  
13 products, alternative nicotine products or vapor products at retail  
14 shall post conspicuously and keep so posted at the place of business  
15 a sign, as specified by the Alcoholic Beverage Laws Enforcement  
16 (ABLE) Commission, stating the following: "IT'S THE LAW. WE DO NOT  
17 SELL TOBACCO PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS OR VAPOR  
18 PRODUCTS TO PERSONS UNDER 18 YEARS OF AGE". The sign shall also  
19 provide the toll-free number operated by the Alcoholic Beverage Laws  
20 Enforcement (ABLE) Commission for the purpose of reporting  
21 violations of the Prevention of Youth Access to Tobacco Act.

22 B. When a person violates subsection A of this section, the  
23 Alcoholic Beverage Laws Enforcement (ABLE) Commission shall impose  
24 an administrative fine of not more than Fifty Dollars (\$50.00) for

1 each day a violation occurs. Each day a violation is continuing  
2 shall constitute a separate offense. The notice required by  
3 subsection A of this section shall be the only notice required to be  
4 posted or maintained in any store that sells tobacco products,  
5 alternative nicotine products or vapor products at retail.

6 SECTION 7. AMENDATORY 37 O.S. 2011, Section 600.6, is  
7 amended to read as follows:

8 Section 600.6 A. Every person engaged in the business of  
9 selling tobacco products, alternative nicotine products or vapor  
10 products at retail shall notify each individual employed by that  
11 person as a retail sales clerk that state law:

12 1. Prohibits the sale or distribution of tobacco products,  
13 alternative nicotine products or vapor products to any person under  
14 eighteen (18) years of age and the purchase or receipt of tobacco  
15 products, alternative nicotine products or vapor products by any  
16 person under eighteen (18) years of age; and

17 2. Requires that proof of age be demanded from a prospective  
18 purchaser or recipient if an ordinary person would conclude on the  
19 basis of appearance that the prospective purchaser or recipient may  
20 be under eighteen (18) years of age.

21 B. This notice shall be provided before the individual  
22 commences work as a retail sales clerk. The individual shall  
23 signify that he or she has received the notice required by this  
24 section by signing a form stating as follows:

1 "I understand that state law prohibits the sale or distribution of  
2 tobacco products, alternative nicotine products or vapor products to  
3 persons under eighteen (18) years of age and out-of-package sales,  
4 and requires proof of age of purchaser or recipient if an ordinary  
5 person would conclude on the basis of appearance that the  
6 prospective purchaser or recipient may be under eighteen (18) years  
7 of age. I promise, as a condition of my employment, to obey the  
8 law. I understand that violations by me may be punishable by fines,  
9 suspension or nonissuance of my driver license. In addition, I  
10 understand that violations by me may subject the storeowner to fines  
11 or license suspension."

12 SECTION 8. AMENDATORY 37 O.S. 2011, Section 600.7, is  
13 amended to read as follows:

14 Section 600.7 It shall be unlawful for any person to sell  
15 tobacco products, alternative nicotine products or vapor products  
16 through a vending machine unless the vending machine is located:

17 1. In areas of factories, businesses, offices or other places  
18 that are not open to the public; and

19 2. In places that are open to the public, but to which persons  
20 under eighteen (18) years of age are not admitted.

21 SECTION 9. AMENDATORY 37 O.S. 2011, Section 600.8, is  
22 amended to read as follows:

23 Section 600.8 A. It shall be unlawful for any person or  
24 retailer to distribute tobacco products, alternative nicotine

1 products, vapor products or product samples to any person under  
2 eighteen (18) years of age.

3 B. No person shall distribute tobacco products, alternative  
4 nicotine products, vapor products or product samples in or on any  
5 public street, sidewalk, or park that is within three hundred (300)  
6 feet of any playground, school, or other facility when the facility  
7 is being used primarily by persons under eighteen (18) years of age.

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

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

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

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

17 D. Upon failure of any person to pay an administrative fine  
18 within ninety (90) days of the assessment of the fine, the ABLE  
19 Commission shall notify the Department of Public Safety, and the  
20 Department shall suspend or not issue a driver license to the person  
21 until proof of payment has been furnished to the Department of  
22 Public Safety.

23 E. Cities and towns may enact and municipal police officers may  
24 enforce ordinances prohibiting and penalizing conduct under

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

5 SECTION 10. AMENDATORY 37 O.S. 2011, Section 600.10, is  
6 amended to read as follows:

7 Section 600.10 No agency or other political subdivision of the  
8 state, including, but not limited to, municipalities, counties or  
9 any agency thereof, may adopt any order, ordinance, rule or  
10 regulation concerning the sale, purchase, distribution, advertising,  
11 sampling, promotion, display, possession, ~~licensing~~ or taxation of  
12 tobacco products, alternative nicotine products or vapor products,  
13 except as provided in Section 1511 of Title 68 of the Oklahoma  
14 Statutes, Section 1-1521 et seq. of Title 63 of the Oklahoma  
15 Statutes and Section 1247 of Title 21 of the Oklahoma Statutes.  
16 Provided, however, nothing in this section shall preclude or preempt  
17 any agency or political subdivision from exercising its lawful  
18 authority to regulate zoning or land use or to enforce a fire code  
19 regulation regulating smoking or tobacco products to the extent that  
20 such regulation is substantially similar to nationally recognized  
21 standard fire codes.

22 SECTION 11. AMENDATORY 37 O.S. 2011, Section 600.10A, is  
23 amended to read as follows:

24

1 Section 600.10A A. It is unlawful for any person or retail  
2 store to display or offer for sale tobacco products, alternative  
3 nicotine products or vapor products in any manner that allows public  
4 access to the tobacco ~~product~~ products, alternative nicotine  
5 products or vapor products without assistance from the person  
6 displaying the tobacco ~~product~~ products, alternative nicotine  
7 products or vapor products or an employee or the owner of the store.  
8 The provisions of this subsection shall not apply to retail stores  
9 which do not admit into the store persons under eighteen (18) years  
10 of age.

11 B. When a person violates subsection A of this section, the  
12 Alcoholic Beverage Laws Enforcement (ABLE) Commission shall impose  
13 an administrative fine of not more than Two Hundred Dollars  
14 (\$200.00) for each offense.

15 C. Cities and towns may enact and municipal police officers may  
16 enforce ordinances prohibiting and penalizing conduct under  
17 provisions of this section, but the provisions of municipal  
18 ordinances shall be the same as provided for in this section, and  
19 the penalty provisions under such ordinances shall not be more  
20 stringent than those of this section.

21 SECTION 12. AMENDATORY 37 O.S. 2011, Section 600.11, is  
22 amended to read as follows:

23 Section 600.11 A. The Alcoholic Beverage Laws Enforcement  
24 (ABLE) Commission is authorized and empowered to enforce the

1 provisions of Sections 600.1 et seq. of this title. The ABLE  
2 Commission shall enforce those provisions in a manner that can  
3 reasonably be expected to reduce the extent to which tobacco  
4 products, alternative nicotine products or vapor products are sold  
5 or distributed to persons under eighteen (18) years of age.

6 B. The ABLE Commission may consider mitigating or aggravating  
7 circumstances involved with the violation of the Prevention of Youth  
8 Access to Tobacco Act when assessing penalties.

9 C. Any conviction for a violation of a municipal ordinance  
10 authorized by the Prevention of Youth Access to Tobacco Act and any  
11 compliance checks by a municipal police officer or a county sheriff  
12 pursuant to subsection E of this section shall be reported in  
13 writing to the ABLE Commission within thirty (30) days of such  
14 conviction or compliance check. Such reports shall be compiled in  
15 the manner prescribed by the ABLE Commission.

16 D. For the purpose of determining second or subsequent  
17 violations, both the offenses penalized by the ABLE Commission as  
18 administrative fines and the offenses penalized by municipalities  
19 and towns and reported to the ABLE Commission, shall be considered  
20 together in such determination.

21 E. Persons under eighteen (18) years of age may be enlisted by  
22 the ABLE Commission, a municipality or town, or a county to assist  
23 in compliance checks and enforcement; provided, such persons may be  
24 used to test compliance only if written parental consent has been

1 provided and the testing is conducted under the direct supervision  
2 of the ABLE Commission or conducted by another law enforcement  
3 agency if such agency has given written notice to the ABLE  
4 Commission in the manner prescribed by the ABLE Commission.  
5 Municipalities which have enacted municipal ordinances in accordance  
6 with the Prevention of Youth Access to Tobacco Act may conduct,  
7 pursuant to rules of the ABLE Commission, compliance checks without  
8 prior notification to the ABLE Commission and shall be exempt from  
9 the written notice requirement in this subsection. This subsection  
10 shall not apply to the use of persons under eighteen (18) years of  
11 age to test compliance if the compliance test is being conducted by  
12 or on behalf of a retailer of cigarettes, as defined in Section 301  
13 of Title 68 of the Oklahoma Statutes, at any location the retailer  
14 of cigarettes is authorized to sell cigarettes. Any other use of  
15 persons under eighteen (18) years of age to test compliance shall be  
16 unlawful and punishable by the ABLE Commission by assessment of an  
17 administrative fine of One Hundred Dollars (\$100.00).

18 F. At the beginning of each month, the Oklahoma Tax Commission,  
19 pursuant to Section 205 of Title 68 of the Oklahoma Statutes, shall  
20 provide to the ABLE Commission and to each municipality which has  
21 ordinances concerning the Prevention of Youth Access to Tobacco Act,  
22 the location, name, and address of each licensee licensed to sell  
23 tobacco products, alternative nicotine products or vapor products at  
24 retail or otherwise furnish tobacco products, alternative nicotine

1 products or vapor products. Upon violation of an employee at a  
2 location, the ABLE Commission shall notify the storeowner for that  
3 location of the latest and all previous violations when one of their  
4 employees has been determined to be in violation of the Prevention  
5 of Youth Access to Tobacco Act by the ABLE Commission or convicted  
6 of a violation by a municipality. If the ABLE Commission fails to  
7 notify the licensee of a violation by an employee, that violation  
8 shall not apply against the licensee for the purpose of determining  
9 a license suspension pursuant to Section 600.3 of this title. For  
10 purposes of this subsection, notification shall be deemed given if  
11 the ABLE Commission mails, by mail with delivery confirmation, the  
12 notification to the address which is on file with the Oklahoma Tax  
13 Commission of the licensee or sales tax permit holder of the  
14 location at which the violation occurred and the ABLE Commission  
15 receives delivery confirmation from the U.S. Postal Service.

16 G. Upon request of a storeowner or a municipality which has  
17 enacted ordinances in accordance with the Prevention of Youth Access  
18 to Tobacco Act, the ABLE Commission is hereby authorized to provide  
19 information on any Prevention of Youth Access to Tobacco Act offense  
20 of any applicant for employment or employee of the storeowner.

21 H. The ABLE Commission shall prepare for submission annually to  
22 the Secretary of the United States Department of Health and Human  
23 Services, the report required by Section 1926 of the federal Public  
24 Health Service Act (42 U.S.C. 300-26), and otherwise shall be

1 responsible for ensuring the state's compliance with that provision  
2 of federal law and any implementing of regulations promulgated by  
3 the United States Department of Health and Human Services.

4 SECTION 13. AMENDATORY 37 O.S. 2011, Section 600.13, is  
5 amended to read as follows:

6 Section 600.13 A. It is unlawful for any person to sell, give  
7 or furnish in any manner to another person who is under eighteen  
8 (18) years of age any material or device used in the smoking,  
9 chewing, or other method of consumption of tobacco products,  
10 alternative nicotine products or vapor products, including cigarette  
11 papers, pipes, holders of smoking materials of all types, and other  
12 items designed primarily for the smoking or ingestion of tobacco  
13 products, alternative nicotine products or vapor products.

14 B. When a person violates subsection A of this section, the  
15 Alcoholic Beverage Laws Enforcement (ABLE) Commission shall impose  
16 an administrative fine of not more than One Hundred Dollars  
17 (\$100.00) for each offense.

18 SECTION 14. This act shall become effective November 1, 2014.  
19

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