

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 2904

By: Ownbey

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5  
6 AS INTRODUCED

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

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

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

18 Section 600.2. As used in the Prevention of Youth Access to  
19 Tobacco Act:

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

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

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

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

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

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

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

1       ~~6.~~ 7. "Transaction scan" means the process by which a seller  
2 checks, by means of a transaction scan device, the validity of a  
3 driver license or other government-issued photo identification; and

4       ~~7.~~ 8. "Transaction scan device" means any commercial device or  
5 combination of devices used at a point of sale or entry that is  
6 capable of deciphering in an electronically readable format the  
7 information encoded on the magnetic strip or bar code of a driver  
8 license or other government-issued photo identification.

9       SECTION 2.       AMENDATORY       37 O.S. 2011, Section 600.4, as  
10 renumbered by Section 28, Chapter 404, O.S.L. 2013 (10A O.S. Supp.  
11 2013, Section 2-8-224), is amended to read as follows:

12       Section 2-8-224. A. It is unlawful for a person who is under  
13 eighteen (18) years of age to purchase, receive, or have in their  
14 possession a tobacco product, or to present or offer to any person  
15 any purported proof of age which is false or fraudulent, for the  
16 purpose of purchasing or receiving any tobacco product. It shall  
17 not be unlawful for an employee under eighteen (18) years of age to  
18 handle tobacco products when required in the performance of the  
19 employee's duties.

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

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

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

4 Upon failure of the individual to pay the administrative fine  
5 within ninety (90) days of the day of the fine, the ABLE Commission  
6 shall notify the Department of Public Safety and the Department  
7 shall suspend or not issue a driver license to the individual until  
8 proof of payment has been furnished to the Department of Public  
9 Safety.

10 C. The ABLE Commission shall establish rules to provide for  
11 notification to a parent or guardian of any minor cited for a  
12 violation of this section.

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

19 E. For the purposes of this section, "tobacco product" means  
20 any product that is made from or derived from tobacco or contains  
21 nicotine or a similar substance, and is intended for human  
22 consumption or is likely to be consumed, whether smoked, heated,  
23 chewed, absorbed, dissolved, inhaled or ingested by any other means,  
24 including but not limited to a cigarette, cigar, pipe tobacco,

1 chewing tobacco, snuff, snus, or an electronic smoking device.  
2 "Tobacco product" shall not include any product specifically  
3 approved by the United States Food and Drug Administration for sale  
4 as a tobacco cessation product that is being marketed and sold  
5 solely for the approved purpose. For the purposes of this  
6 subsection, "electronic smoking device" means any product containing  
7 or delivering nicotine or any other similar substances intended for  
8 human consumption that can be used by a person to simulate smoking  
9 through inhalation of vapor and aerosol from the product.  
10 "Electronic smoking device" includes any component part of such  
11 product whether or not sold separately and does not include any  
12 product that has been approved by the United States Food and Drug  
13 Administration for sale as a tobacco cessation product and is being  
14 marketed and sold solely for the approved purpose.

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

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