

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 2988

By: McPeak

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6 AS INTRODUCED

7 An Act relating to tobacco products; defining certain
8 term; prohibiting the sale or possession of certain
9 product; creating penalty; amending 37 O.S. 2011,
10 Section 600.2, which relates to definitions;
11 modifying certain definition; amending 37 O.S. 2011,
12 Section 600.4, as renumbered by Section 28, Chapter
13 404, O.S.L. 2013 (10A O.S. Supp. 2013, Section 2-8-
224), which relates to the prohibition of persons
under eighteen years of age from purchasing or
possessing tobacco products; modifying maximum amount
of administrative fines; adding certain definition;
providing for codification; and providing an
effective date.

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

17 SECTION 1. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 1248 of Title 21, unless there
19 is created a duplication in numbering, reads as follows:

20 A. For purposes of this section, "tobacco product" means any
21 product that contains tobacco and is intended for human consumption,
22 including, but not limited to, electronic cigarettes and liquid
23 nicotine. For purposes of this subsection:
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1 1. "Electronic cigarette" or "e-cigarette" means any electronic
2 smoking or vapor device that provides a nicotine vapor to the user
3 as the user simulates smoking. This term shall include such devices
4 whether they are manufactured as e-cigarettes, e-cigars, or e-pipes,
5 vapor devices or any other product name; and

6 2. "Liquid nicotine" means any liquid product composed either
7 in whole or in part of nicotine and manufactured for use with
8 electronic cigarettes.

9 B. The sale or possession of a tobacco product which contains a
10 substance in violation of the Uniform Controlled Dangerous
11 Substances Act is prohibited.

12 C. A violation of this section shall be a misdemeanor.

13 SECTION 2. AMENDATORY 37 O.S. 2011, Section 600.2, is
14 amended to read as follows:

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

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

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

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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, including, but not limited
7 to, electronic cigarettes and liquid nicotine. For purposes of this
8 section:

9 a. "electronic cigarette" or "e-cigarette" means any
10 electronic smoking or vapor device that provides a
11 nicotine vapor to the user as the user simulates
12 smoking. This term shall include such devices whether
13 they are manufactured as e-cigarettes, e-cigars, or e-
14 pipes, vapor devices or any other product name, and

15 b. "liquid nicotine" means any liquid product composed
16 either in whole or in part of nicotine and
17 manufactured for use with electronic cigarettes;

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

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

3 SECTION 3. AMENDATORY 37 O.S. 2011, Section 600.4, as
4 renumbered by Section 28, Chapter 404, O.S.L. 2013 (10A O.S. Supp.
5 2013, Section 2-8-224), is amended to read as follows:

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

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:

17 1. Not to exceed ~~One Hundred Dollars (\$100.00)~~ Five Thousand
18 Dollars (\$5,000.00) for a first offense; and

19 2. Not to exceed ~~Two Hundred Dollars (\$200.00)~~ Twenty Thousand
20 Dollars (\$20,000.00) for a second or subsequent offense within a
21 one-year period following the first offense.

22 Upon failure of the individual to pay the administrative fine
23 within ninety (90) days of the day of the fine, the ABLE Commission
24 shall notify the Department of Public Safety and the Department

1 shall suspend or not issue a driver license to the individual until
2 proof of payment has been furnished to the Department of Public
3 Safety.

4 C. The ABLE Commission shall establish rules to provide for
5 notification to a parent or guardian of any minor cited for a
6 violation of this section.

7 D. Cities and towns may enact and municipal police officers may
8 enforce ordinances prohibiting and penalizing conduct under
9 provisions of this section, but the provisions of such ordinances
10 shall be the same as provided for in this section, and the
11 enforcement provisions under such ordinances shall not be more
12 stringent than those of this section.

13 E. For purposes of this section, "tobacco product" means any
14 product that contains tobacco and is intended for human consumption,
15 including, but not limited to, electronic cigarettes and liquid
16 nicotine. For purposes of this subsection:

17 1. "Electronic cigarette" or "e-cigarette" means any electronic
18 smoking or vapor device that provides a nicotine vapor to the user
19 as the user simulates smoking. This term shall include such devices
20 whether they are manufactured as e-cigarettes, e-cigars, or e-pipes,
21 vapor devices or any other product name; and

22 2. "Liquid nicotine" means any liquid product composed either
23 in whole or in part of nicotine and manufactured for use with
24 electronic cigarettes.

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SECTION 4. This act shall become effective November 1, 2014.

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