

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 HOUSE BILL 3147

By: Coody (Jeff)

4
5
6 AS INTRODUCED

7 An Act relating to tobacco; amending 37 O.S. 2011,
8 Sections 600.2, 600.3, 600.5, 600.6, 600.7, 600.8,
9 600.10A, 600.11 and 600.13, as amended by Sections 3,
10 4, 6, 7, 8, 9, 11, 12 and 13, Chapter 162, O.S.L.
11 2014 (37 O.S. Supp. 2015, Sections 600.2, 600.3,
12 600.5, 600.6, 600.7, 600.8, 600.10A, 600.11 and
13 600.13) and 37 O.S. 2011, Section 600.4, as
14 renumbered by Section 28, Chapter 404, O.S.L. 2013
15 and as amended by Section 5, Chapter 162, O.S.L. 2014
16 (10A O.S. Supp. 2015, Section 2-8-224), which relate
17 to the Prevention of Youth Access to Tobacco Act;
18 modifying definition; prohibiting the sale of tobacco
19 products or vapor products to persons under nineteen
20 years of age beginning on certain date; prohibiting
21 the sale of tobacco products or vapor products to
22 persons under twenty years of age beginning on
23 certain date; prohibiting the sale of tobacco
24 products or vapor products to persons under twenty-
one years of age beginning on certain date; providing
for exception; conforming references to age; and
providing an effective date.

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

SECTION 1. AMENDATORY 37 O.S. 2011, Section 600.2, as
amended by Section 3, Chapter 162, O.S.L. 2014 (37 O.S. Supp. 2015,
Section 600.2), is amended to read as follows:

Section 600.2 As used in the Prevention of Youth Access to
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 being of the appropriate age pursuant to subsection A of Section
7 600.3 of this title or older and contains a photograph or other
8 likeness of the individual and appears on its face to be valid;

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

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

14 5. "Tobacco product" means any product that contains tobacco
15 and is intended for human consumption;

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

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

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

16 SECTION 2. AMENDATORY 37 O.S. 2011, Section 600.3, as
17 amended by Section 4, Chapter 162, O.S.L. 2014 (37 O.S. Supp. 2015,
18 Section 600.3), is amended to read as follows:

19 Section 600.3 A. ~~It is~~ Beginning on November 1, 2017, it shall
20 be unlawful for any person to sell, give or furnish in any manner
21 any tobacco product or vapor product to another person who is under
22 ~~eighteen (18)~~ nineteen (19) years of age, or to purchase in any
23 manner a tobacco product or vapor product on behalf of any such
24 person. Beginning on November 1, 2018, it shall be unlawful for any

1 person to sell, give or furnish in any manner any tobacco product or
2 vapor product to another person who is under twenty (20) years of
3 age, or to purchase in any manner a tobacco product or vapor product
4 on behalf of any such person. Beginning on November 1, 2019, it
5 shall be unlawful for any person to sell, give or furnish in any
6 manner any tobacco product or vapor product to another person who is
7 under twenty-one (21) years of age, or to purchase in any manner a
8 tobacco product or vapor product on behalf of any such person. It
9 shall not be unlawful for an employee under ~~eighteen (18) years of~~
10 the appropriate age pursuant to this subsection to handle tobacco
11 products or vapor products when required in the performance of the
12 employee's duties.

13 The provisions of this subsection shall not be applicable to any
14 active duty or reserve members of the United States Armed Forces or
15 the Oklahoma National Guard or the United States National Guard if
16 valid military identification is provided.

17 B. A person engaged in the sale or distribution of tobacco
18 products or vapor products shall demand proof of age from a
19 prospective purchaser or recipient if an ordinary person would
20 conclude on the basis of appearance that the prospective purchaser
21 may be under ~~eighteen (18) years of~~ the appropriate age pursuant to
22 subsection A of this section.

23 If an individual engaged in the sale or distribution of tobacco
24 products or vapor products has demanded proof of age from a

1 prospective purchaser or recipient who is not under ~~eighteen (18)~~
2 years of the appropriate age pursuant to subsection A of this
3 section, the failure to subsequently require proof of age shall not
4 constitute a violation of this subsection.

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

- 8 a. not more than One Hundred Dollars (\$100.00) for the
9 first offense,
- 10 b. not more than Two Hundred Dollars (\$200.00) for the
11 second offense within a two-year period following the
12 first offense,
- 13 c. not more than Three Hundred Dollars (\$300.00) for a
14 third offense within a two-year period following the
15 first offense. In addition to any other penalty, the
16 store's license to sell tobacco products or the
17 store's sales tax permit for a store that is
18 predominantly engaged in the sale of vapor products in
19 which the sale of other products is merely incidental
20 may be suspended for a period not exceeding thirty
21 (30) days, or
- 22 d. not more than Three Hundred Dollars (\$300.00) for a
23 fourth or subsequent offense within a two-year period
24 following the first offense. In addition to any other

1 penalty, the store's license to sell tobacco products
2 or the store's sales tax permit for a store that is
3 predominantly engaged in the sale of vapor products in
4 which the sale of other products is merely incidental
5 may be suspended for a period not exceeding sixty (60)
6 days.

7 2. When it has been determined that a penalty shall include a
8 license or permit suspension, the ABLE Commission shall notify the
9 Oklahoma Tax Commission, and the Oklahoma Tax Commission shall
10 suspend the store's license to sell tobacco products or the store's
11 sales tax permit for a store that is predominantly engaged in the
12 sale of vapor products in which the sale of other products is merely
13 incidental at the location where the offense occurred for the period
14 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 the violation if such
20 person proves that:

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

1 ~~eighteen (18) years of~~ the appropriate age pursuant to
2 subsection A of this section or older, or

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 the person failed to
10 exercise reasonable diligence to determine whether the physical
11 description and picture appearing on the driver license or other
12 government-issued photo identification was that of the individual
13 who presented it. The availability of the defense described in this
14 subsection does not affect the availability of any other defense
15 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 or vapor products are sold at retail, the
18 employee shall be guilty of the violation and shall be subject to
19 the fine. Each violation by any employee of an owner of a store
20 licensed to sell tobacco products or permitted to sell vapor
21 products shall be deemed a violation against the owner for purposes
22 of a license suspension pursuant to subsection C of this section.
23 Each violation by an employee of a store predominantly engaged in
24 the sale of vapor products in which the sale of other products is

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

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

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

1 2. Upon failure of a storeowner to pay the administrative fine
2 within ninety (90) days of the assessment of the fine, the ABLE
3 Commission shall notify the Oklahoma Tax Commission, and the
4 Oklahoma Tax Commission shall suspend the store's license to sell
5 tobacco products or the store's sales tax permit for a store that is
6 predominantly engaged in the sale of vapor products in which the
7 sale of other products is merely incidental until proof of payment
8 has been furnished to the Oklahoma Tax Commission.

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

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

17 SECTION 3. AMENDATORY 37 O.S. 2011, Section 600.5, as
18 amended by Section 6, Chapter 162, O.S.L. 2014 (37 O.S. Supp. 2015,
19 Section 600.5), is amended to read as follows:

20 Section 600.5 A. Every person who sells or displays tobacco
21 products or vapor products at retail shall post conspicuously and
22 keep so posted at the place of business a sign, as specified by the
23 Alcoholic Beverage Laws Enforcement (ABLE) Commission, stating the
24 following: "IT'S THE LAW. WE DO NOT SELL TOBACCO PRODUCTS OR VAPOR

1 PRODUCTS TO PERSONS UNDER ~~18 YEARS OF~~ THE AGE PRESCRIBED BY LAW."

2 The sign shall also provide the toll-free number operated by the
3 ~~Alcoholic Beverage Laws Enforcement (ABLE)~~ ABLE Commission for the
4 purpose of reporting violations of the Prevention of Youth Access to
5 Tobacco Act.

6 B. When a person violates subsection A of this section, the
7 ~~Alcoholic Beverage Laws Enforcement (ABLE)~~ ABLE Commission shall
8 impose an administrative fine of not more than Fifty Dollars
9 (\$50.00) for each day a violation occurs. Each day a violation is
10 continuing shall constitute a separate offense. The notice required
11 by subsection A of this section shall be the only notice required to
12 be posted or maintained in any store that sells tobacco products or
13 vapor products at retail.

14 SECTION 4. AMENDATORY 37 O.S. 2011, Section 600.6, as
15 amended by Section 7, Chapter 162, O.S.L. 2014 (37 O.S. Supp. 2015,
16 Section 600.6), is amended to read as follows:

17 Section 600.6 A. Every person engaged in the business of
18 selling tobacco products or vapor products at retail shall notify
19 each individual employed by that person as a retail sales clerk that
20 state law:

21 1. Prohibits the sale or distribution of tobacco products or
22 vapor products to any person under ~~eighteen (18) years of~~ the
23 appropriate age pursuant to subsection A of Section 600.3 of this
24 title and the purchase or receipt of tobacco products or vapor

1 products by any person under ~~eighteen (18) years of~~ the appropriate
2 age pursuant to subsection A of Section 600.3 of this title; and

3 2. Requires that proof of age be demanded from a prospective
4 purchaser or recipient if an ordinary person would conclude on the
5 basis of appearance that the prospective purchaser or recipient may
6 be under ~~eighteen (18) years of~~ the appropriate age pursuant to
7 subsection A of Section 600.3 of this title.

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

12 "I understand that state law prohibits the sale or distribution of
13 tobacco products or vapor products to persons ~~under eighteen (18)~~
14 ~~years of age~~ who are underage and out-of-package sales, and requires
15 proof of age of purchaser or recipient if an ordinary person would
16 conclude on the basis of appearance that the prospective purchaser
17 or recipient may be ~~under eighteen (18) years of age~~ underage. I
18 promise, as a condition of my employment, to obey the law. I
19 understand that violations by me may be punishable by fines,
20 suspension or nonissuance of my driver license. In addition, I
21 understand that violations by me may subject the storeowner to fines
22 or license or permit suspension."

1 SECTION 5. AMENDATORY 37 O.S. 2011, Section 600.7, as
2 amended by Section 8, Chapter 162, O.S.L. 2014 (37 O.S. Supp. 2015,
3 Section 600.7), is amended to read as follows:

4 Section 600.7 It shall be unlawful for any person to sell
5 tobacco products or vapor products through a vending machine unless
6 the vending machine is located:

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

9 2. In places that are open to the public, but to which persons
10 under ~~eighteen (18) years of~~ the appropriate age pursuant to
11 subsection A of Section 600.3 of this title are not admitted.

12 SECTION 6. AMENDATORY 37 O.S. 2011, Section 600.8, as
13 amended by Section 9, Chapter 162, O.S.L. 2014 (37 O.S. Supp. 2015,
14 Section 600.8), is amended to read as follows:

15 Section 600.8 A. It shall be unlawful for any person or
16 retailer to distribute tobacco products, vapor products or product
17 samples to any person under ~~eighteen (18) years of~~ the appropriate
18 age pursuant to subsection A of Section 600.3 of this title.

19 B. No person shall distribute tobacco products, vapor products
20 or product samples in or on any public street, sidewalk, or park
21 that is within three hundred (300) feet of any playground, school,
22 or other facility when the facility is being used primarily by
23 persons under ~~eighteen (18) years of~~ the appropriate age.
24

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

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

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

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

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

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

22 SECTION 7. AMENDATORY 37 O.S. 2011, Section 600.10A, as
23 amended by Section 11, Chapter 162, O.S.L. 2014 (37 O.S. Supp. 2015,
24 Section 600.10A), is amended to read as follows:

1 Section 600.10A A. It is unlawful for any person or retail
2 store to display or offer for sale tobacco products or vapor
3 products in any manner that allows public access to the tobacco
4 products or vapor products without assistance from the person
5 displaying the tobacco products or vapor products or an employee or
6 the owner of the store. The provisions of this subsection shall not
7 apply to retail stores which do not admit into the store persons
8 under ~~eighteen (18) years of~~ the appropriate age pursuant to
9 subsection A of Section 600.3 of this title.

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

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

20 SECTION 8. AMENDATORY 37 O.S. 2011, Section 600.11, as
21 amended by Section 12, Chapter 162, O.S.L. 2014 (37 O.S. Supp. 2015,
22 Section 600.11), is 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~~ Section 600.1 et seq. of this title. The
2 ABLE Commission shall enforce those provisions in a manner that can
3 reasonably be expected to reduce the extent to which tobacco
4 products or vapor products are sold or distributed to persons under
5 ~~eighteen (18) years of~~ the appropriate age pursuant to subsection A
6 of Section 600.3 of this title.

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

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

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

22 E. Persons under ~~eighteen (18) years of~~ the appropriate age
23 pursuant to subsection A of Section 600.3 of this title may be
24 enlisted by the ABLE Commission, a municipality or town, or a county

1 to assist in compliance checks and enforcement; provided, such
2 persons may be used to test compliance only if written parental
3 consent has been provided and the testing is conducted under the
4 direct supervision of the ABLE Commission or conducted by another
5 law enforcement agency if such agency has given written notice to
6 the ABLE Commission in the manner prescribed by the ABLE Commission.
7 Municipalities which have enacted municipal ordinances in accordance
8 with the Prevention of Youth Access to Tobacco Act may conduct,
9 pursuant to rules of the ABLE Commission, compliance checks without
10 prior notification to the ABLE Commission and shall be exempt from
11 the written notice requirement in this subsection. This subsection
12 shall not apply to the use of persons under ~~eighteen (18) years of~~
13 the appropriate age pursuant to subsection A of Section 600.3 of
14 this title to test compliance if the compliance test is being
15 conducted by or on behalf of a retailer of cigarettes, as defined in
16 Section 301 of Title 68 of the Oklahoma Statutes, at any location
17 the retailer of cigarettes is authorized to sell cigarettes. Any
18 other use of persons under ~~eighteen (18) years of~~ the appropriate
19 age pursuant to subsection A of Section 600.3 of this title to test
20 compliance shall be unlawful and punishable by the ABLE Commission
21 by assessment of an administrative fine of One Hundred Dollars
22 (\$100.00).

23 F. At the beginning of each month, the Oklahoma Tax Commission,
24 pursuant to Section 205 of Title 68 of the Oklahoma Statutes, shall

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

21 G. Upon request of a storeowner or a municipality which has
22 enacted ordinances in accordance with the Prevention of Youth Access
23 to Tobacco Act, the ABLE Commission is hereby authorized to provide
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1 information on any Prevention of Youth Access to Tobacco Act offense
2 of any applicant for employment or employee of the storeowner.

3 H. The ABLE Commission shall prepare for submission annually to
4 the Secretary of the United States Department of Health and Human
5 Services, the report required by Section 1926 of the federal Public
6 Health Service Act (42 U.S.C. 300-26), and otherwise shall be
7 responsible for ensuring the state's compliance with that provision
8 of federal law and any implementing of regulations promulgated by
9 the United States Department of Health and Human Services.

10 SECTION 9. AMENDATORY 37 O.S. 2011, Section 600.13, as
11 amended by Section 13, Chapter 162, O.S.L. 2014 (37 O.S. Supp. 2015,
12 Section 600.13), is amended to read as follows:

13 Section 600.13 A. It is unlawful for any person to sell, give
14 or furnish in any manner to another person who is under ~~eighteen~~
15 ~~(18) years of~~ the appropriate age pursuant to subsection A of
16 Section 600.3 of this title any material or device used in the
17 smoking, chewing~~7~~ or other method of consumption of tobacco products
18 or vapor products, including cigarette papers, pipes, holders of
19 smoking materials of all types~~7~~ and other items designed primarily
20 for the smoking or ingestion of tobacco products or vapor products.

21 B. When a person violates subsection A of this section, the
22 Alcoholic Beverage Laws Enforcement (ABLE) Commission shall impose
23 an administrative fine of not more than One Hundred Dollars
24 (\$100.00) for each offense.

1 SECTION 10. AMENDATORY 37 O.S. 2011, Section 600.4, as
2 renumbered by Section 28, Chapter 404, O.S.L. 2013, and as amended
3 by Section 5, Chapter 162, O.S.L. 2014 (10A O.S. Supp. 2015, Section
4 2-8-224), is amended to read as follows:

5 Section 2-8-224. A. It is unlawful for a person who is under
6 ~~eighteen (18) years of~~ the appropriate age pursuant to subsection A
7 of Section 600.3 of Title 37 of the Oklahoma Statutes to purchase,
8 receive, or have in his or her possession a tobacco product, or
9 vapor product, or to present or offer to any person any purported
10 proof of age which is false or fraudulent, for the purpose of
11 purchasing or receiving any tobacco product or vapor product. It
12 shall not be unlawful for an employee under ~~eighteen (18) years of~~
13 the appropriate age pursuant to subsection A of Section 600.3 of
14 Title 37 of the Oklahoma Statutes to handle tobacco products or
15 vapor products when required in the performance of the employee's
16 duties.

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

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

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

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

7 C. The ABLE Commission shall establish rules to provide for
8 notification to a parent or guardian of any minor cited for a
9 violation of this section.

10 D. 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 such ordinances
13 shall be the same as provided for in this section, and the
14 enforcement provisions under such ordinances shall not be more
15 stringent than those of this section.

16 E. For the purposes of this section, the term "~~vapor products~~
17 product" shall have the same meaning as provided in the Prevention
18 of Youth Access to Tobacco Act.

19 SECTION 11. This act shall become effective November 1, 2016.
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