

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

3                               2nd Session of the 59th Legislature (2024)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 3331

By: Roe

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8                               COMMITTEE SUBSTITUTE

9           An Act relating to tobacco and vapor products;  
10          amending 63 O.S. 2021, Section 1-229.13, as amended  
11          by Section 34, Chapter 310, O.S.L. 2023 (63 O.S.  
12          Supp. 2023, Section 1-229.13), which relates to  
13          Prevention of Youth Access to Tobacco Act; modifying  
14          fines to include store owner when there is a sale to  
15          a minor; and providing an effective date.

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

17           SECTION 1.           AMENDATORY           63 O.S. 2021, Section 1-229.13, as  
18          amended by Section 34, Chapter 310, O.S.L. 2023 (63 O.S. Supp. 2023,  
19          Section 1-229.13), is amended to read as follows:

20           Section 1-229.13   A.   It is unlawful for any person to sell,  
21          give or furnish in any manner any tobacco product, nicotine product  
22          or vapor product to another person who is under twenty-one (21)  
23          years of age, or to purchase in any manner a tobacco product,  
24          nicotine product or vapor product on behalf of any such person.   It  
            shall not be unlawful for an employee under twenty-one (21) years of

1 age to handle tobacco products, nicotine products or vapor products  
2 when required in the performance of the employee's duties.

3 B. A person engaged in the sale or distribution of tobacco  
4 products, nicotine products or vapor products shall demand proof of  
5 age from a prospective purchaser or recipient if an ordinary person  
6 would conclude on the basis of appearance that the prospective  
7 purchaser may be under twenty-one (21) years of age.

8 If an individual engaged in the sale or distribution of tobacco  
9 products, nicotine products or vapor products has demanded proof of  
10 age from a prospective purchaser or recipient who is not under  
11 twenty-one (21) years of age, the failure to subsequently require  
12 proof of age shall not constitute a violation of this subsection.

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

- 16 a. not more than ~~One Hundred Dollars (\$100.00)~~ Two  
17 Hundred Fifty Dollars (\$250.00) for the first offense  
18 to both the employee and the store owner,
- 19 b. not more than ~~Two Hundred Dollars (\$200.00)~~ Five  
20 Hundred Dollars (\$500.00) for the second offense  
21 within a two-year period following the first offense  
22 to both the employee and the store owner,
- 23 c. not more than ~~Three Hundred Dollars (\$300.00)~~ One  
24 Thousand Dollars (\$1,000.00) for a third offense

1 within a two-year period following the first offense  
2 to both the employee and the store owner. In addition  
3 to any other penalty, the store's license to sell  
4 tobacco products or nicotine products or the store's  
5 sales tax permit for a store that is predominantly  
6 engaged in the sale of vapor products in which the  
7 sale of other products is merely incidental may be  
8 suspended for a period not exceeding thirty (30) days,  
9 or

10 d. not more than ~~Three Hundred Dollars (\$300.00)~~ One  
11 Thousand Dollars (\$1,000.00) for a fourth or  
12 subsequent offense within a two-year period following  
13 the first offense to both the employee and the store  
14 owner. In addition to any other penalty, the store's  
15 license to sell tobacco products or nicotine products  
16 or the store's sales tax permit for a store that is  
17 predominantly engaged in the sale of vapor products in  
18 which the sale of other products is merely incidental  
19 may be suspended for a period not exceeding sixty (60)  
20 days.

21 2. When it has been determined that a penalty shall include a  
22 license or permit suspension, the ABLE Commission shall notify the  
23 Oklahoma Tax Commission, and the Tax Commission shall suspend the  
24 store's license to sell tobacco products or nicotine products or the

1 store's sales tax permit for a store that is predominantly engaged  
2 in the sale of vapor products in which the sale of other products is  
3 merely incidental at the location where the offense occurred for the  
4 period of time prescribed by the ABLE Commission.

5 3. Proof that the defendant demanded, was shown, and reasonably  
6 relied upon proof of age shall be a defense to any action brought  
7 pursuant to this section. A person cited for violating this section  
8 shall be deemed to have reasonably relied upon proof of age, and  
9 such person shall not be found guilty of the violation if such  
10 person proves that:

11 a. the individual who purchased or received the tobacco  
12 product, nicotine product or vapor product presented a  
13 driver license or other government-issued photo  
14 identification purporting to establish that such  
15 individual was twenty-one (21) years of age or older,  
16 or

17 b. the person cited for the violation confirmed the  
18 validity of the driver license or other government-  
19 issued photo identification presented by such  
20 individual by performing a transaction scan by means  
21 of a transaction scan device.

22 Provided, that this defense shall not relieve from liability any  
23 person cited for a violation of this section if the person failed to  
24 exercise reasonable diligence to determine whether the physical

1 description and picture appearing on the driver license or other  
2 government-issued photo identification was that of the individual  
3 who presented it. The availability of the defense described in this  
4 subsection does not affect the availability of any other defense  
5 under any other provision of law.

6 D. If the sale is made by an employee of the owner of a store  
7 at which tobacco products, nicotine products or vapor products are  
8 sold at retail, the employee shall be guilty of the violation and  
9 both the employee and the store owner shall be subject to the fine.

10 Each violation by any employee of an owner of a store licensed to  
11 sell tobacco products or nicotine products or permitted to sell  
12 vapor products shall be deemed a violation against the owner for  
13 purposes of a license suspension pursuant to subsection C of this  
14 section. Each violation by an employee of a store predominantly  
15 engaged in the sale of vapor products in which the sale of other  
16 products is merely incidental shall be deemed a violation against  
17 the owner for purposes of a sales tax permit suspension pursuant to  
18 the provisions of subsection C of this section. An owner of a store  
19 licensed to sell tobacco products or nicotine products or permitted  
20 to sell vapor products shall not be deemed in violation of the  
21 provisions of the Prevention of Youth Access to Tobacco Act for any  
22 acts constituting a violation by any person, when the violation  
23 occurs prior to actual employment of the person by the storeowner or  
24 the violation occurs at a location other than the owner's retail

1 store. For purposes of determining the liability of a person  
2 controlling franchises or business operations in multiple locations,  
3 for any violations of subsection A or B of this section, each  
4 individual franchise or business location shall be deemed a separate  
5 entity.

6 E. On or before December 15, 1997, the ABLE Commission shall  
7 adopt rules establishing a method of notification of storeowners  
8 when an employee of such storeowner has been determined to be in  
9 violation of this section by the ABLE Commission or convicted of a  
10 violation by a municipality.

11 F. 1. Upon failure of the employee to pay the administrative  
12 fine within ninety (90) days of the day of the assessment of such  
13 fine, the ABLE Commission shall notify Service Oklahoma, and Service  
14 Oklahoma shall suspend or not issue a driver license to the employee  
15 until proof of payment has been furnished to Service Oklahoma.

16 2. Upon failure of a storeowner to pay the administrative fine  
17 within ninety (90) days of the assessment of the fine, the ABLE  
18 Commission shall notify the Tax Commission, and the Tax Commission  
19 shall suspend the store's license to sell tobacco products or  
20 nicotine products or the store's sales tax permit for a store that  
21 is predominantly engaged in the sale of vapor products in which the  
22 sale of other products is merely incidental until proof of payment  
23 has been furnished to the Oklahoma Tax Commission.

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

7 H. County sheriffs may enforce the provisions of the Prevention  
8 of Youth Access to Tobacco Act.

9 SECTION 2. This act shall become effective November 1, 2024.

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11 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CRIMINAL, dated  
12 02/28/2024 - DO PASS, As Amended.  
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