

1 STATE OF OKLAHOMA

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

3 CONFERENCE COMMITTEE
4 SUBSTITUTE
5 FOR ENGROSSED
6 HOUSE BILL NO. 3331

By: Roe of the House

and

Dossett of the Senate

7
8
9 CONFERENCE COMMITTEE SUBSTITUTE

10 An Act relating to tobacco and vapor products;
11 amending 63 O.S. 2021, Section 1-229.13, as amended
12 by Section 34, Chapter 310, O.S.L. 2023 (63 O.S.
13 Supp. 2023, Section 1-229.13), which relates to
14 Prevention of Youth Access to Tobacco Act; modifying
15 fines to include store owner when there is a sale to
16 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

1 shall not be unlawful for an employee under twenty-one (21) years of
2 age to handle tobacco products, nicotine products or vapor products
3 when required in the performance of the employee's duties.

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

9 If an individual engaged in the sale or distribution of tobacco
10 products, nicotine products or vapor products has demanded proof of
11 age from a prospective purchaser or recipient who is not under
12 twenty-one (21) years of age, the failure to subsequently require
13 proof of age shall not constitute a violation of 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) to the
18 employee and not more than Two Hundred Fifty Dollars
19 (\$250.00) to the store owner for the first offense,
20 b. not more than Two Hundred Dollars (\$200.00) to the
21 employee and not more than Five Hundred Dollars
22 (\$500.00) to the store owner for the second offense
23 within a two-year period following the first offense,
24

1 c. not more than Three Hundred Dollars (\$300.00) to the
2 employee and not more than One Thousand Dollars
3 (\$1,000.00) to the store owner for a third offense
4 within a two-year period following the first offense.
5 In addition to any other penalty, the store's license
6 to sell tobacco products or nicotine products or the
7 store's sales tax permit for a store that is
8 predominantly engaged in the sale of vapor products in
9 which the sale of other products is merely incidental
10 may be suspended for a period not exceeding thirty
11 (30) days, or

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

23 2. When it has been determined that a penalty shall include a
24 license or permit suspension, the ABLE Commission shall notify the

1 Oklahoma Tax Commission, and the Tax Commission shall suspend the
2 store's license to sell tobacco products or nicotine products or the
3 store's sales tax permit for a store that is predominantly engaged
4 in the sale of vapor products in which the sale of other products is
5 merely incidental at the location where the offense occurred for the
6 period of time prescribed by the ABLE Commission.

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

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

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

24

1 Provided, that this defense shall not relieve from liability any
2 person cited for a violation of this section if the person failed to
3 exercise reasonable diligence to determine whether the physical
4 description and picture appearing on the driver license or other
5 government-issued photo identification was that of the individual
6 who presented it. The availability of the defense described in this
7 subsection does not affect the availability of any other defense
8 under any other provision of law.

9 D. If the sale is made by an employee of the owner of a store
10 at which tobacco products, nicotine products, or vapor products are
11 sold at retail, the employee shall be guilty of the violation and
12 the employee and the store owner shall be subject to the fine. Each
13 violation by any employee of an owner of a store licensed to sell
14 tobacco products or nicotine products or permitted to sell vapor
15 products shall be deemed a violation against the owner for purposes
16 of a license suspension pursuant to subsection C of this section.
17 Each violation by an employee of a store predominantly engaged in
18 the sale of vapor products in which the sale of other products is
19 merely incidental shall be deemed a violation against the owner for
20 purposes of a sales tax permit suspension pursuant to the provisions
21 of subsection C of this section. An owner of a store licensed to
22 sell tobacco products or nicotine products or permitted to sell
23 vapor products shall not be deemed in violation of the provisions of
24 the Prevention of Youth Access to Tobacco Act for any acts

1 constituting a violation by any person, when the violation occurs
2 prior to actual employment of the person by the storeowner or the
3 violation occurs at a location other than the owner's retail store.
4 For purposes of determining the liability of a person controlling
5 franchises or business operations in multiple locations, for any
6 violations of subsection A or B of this section, each individual
7 franchise or business location shall be deemed a separate entity.

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

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

18 2. Upon failure of a storeowner to pay the administrative fine
19 within ninety (90) days of the assessment of the fine, the ABLE
20 Commission shall notify the Tax Commission, and the Tax Commission
21 shall suspend the store's license to sell tobacco products or
22 nicotine products or the store's sales tax permit for a store that
23 is predominantly engaged in the sale of vapor products in which the
24

1 sale of other products is merely incidental until proof of payment
2 has been furnished to the Oklahoma Tax Commission.

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

9 H. County sheriffs may enforce the provisions of the Prevention
10 of Youth Access to Tobacco Act.

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

12

13 59-2-11074 TJ 05/03/24

14

15

16

17

18

19

20

21

22

23

24