

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 56th Legislature (2017)

4 ENGROSSED SENATE
5 BILL NO. 845

By: David and Fields of the
Senate

6 and

7 Osborn (Leslie) and Wallace
8 of the House

9
10 An Act relating to public health; providing short
11 title; creating the "Smoking Cessation and Prevention
12 Act of 2017"; expressing legislative intent; amending
13 63 O.S. 2011, Section 1-1525, which relates to owner
14 prevention of smoking in nonsmoking areas; requiring
15 signage in additional locations; directing certain
16 agencies to inform the public of the danger of using
17 tobacco products in a motor vehicle where certain
18 children are present; prohibiting the use of tobacco
19 products in certain properties; providing exception;
20 directing certain agency collaboration for certain
21 purpose; expressing legislative intent and findings;
22 assessing a smoking cessation fee on the wholesale
23 sale of cigarettes; providing fee amounts; providing
24 for apportionment of fees; defining terms; requiring
the promulgation of rules; creating the Health Care
Enhancement Fund; exempting funds from fiscal year
limitations; identifying funding source; authorizing
appropriation from certain fund; limiting sale of
certain excise stamps under specified condition;
providing for noncodification; providing for
codification; and declaring an emergency.

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

1 SECTION 1. NEW LAW A new section of law not to be
2 codified in the Oklahoma Statutes reads as follows:

3 It being immediately necessary for the health and welfare of the
4 people of the State of Oklahoma that smoking rates be reduced and
5 that children be warned of and protected from the dangers of
6 smoking, there is hereby created an act which shall be known and may
7 be cited as the "Smoking Cessation Act of 2017".

8 SECTION 2. NEW LAW A new section of law not to be
9 codified in the Oklahoma Statutes reads as follows:

10 It is the intent of the Legislature that the revenues derived
11 pursuant to the fee imposed in Section 7 of this act be used
12 throughout this state for the purposes of preventing Oklahomans from
13 smoking cigarettes and encouraging Oklahomans who already do so to
14 cease cigarette smoking. Any revenue collected pursuant to the
15 provisions of this act shall be subject to the rebate provisions of
16 state-tribal compacts relating to tobacco sales.

17 SECTION 3. AMENDATORY 63 O.S. 2011, Section 1-1525, is
18 amended to read as follows:

19 Section 1-1525. The state or local governmental agency or the
20 person who owns or operates a public place shall, at a minimum, do
21 the following in order to prevent smoking in public places:

22 1. Post conspicuous signs at entrances to and in prominent
23 locations within places where smoking is prohibited which state that

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1 smoking is prohibited or that the indoor environment is free of
2 tobacco smoke; and

3 2. Ask smokers to refrain from smoking upon observation of
4 anyone violating the provisions of ~~this act~~ Section 1-1521 et seq.
5 of this title.

6 SECTION 4. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 1-1528 of Title 63, unless there
8 is created a duplication in numbering, reads as follows:

9 The State Department of Health and the Tobacco Settlement
10 Endowment Trust shall work together to inform the public about the
11 dangers of smoking in motor vehicles where children are present.

12 SECTION 5. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 1-1529 of Title 63, unless there
14 is created a duplication in numbering, reads as follows:

15 The use of any tobacco product shall be prohibited on any and
16 all properties owned, leased or contracted for use by the State of
17 Oklahoma, including but not limited to all buildings, land and
18 vehicles owned, leased or contracted for use by agencies or
19 instrumentalities of the State of Oklahoma. Provided, these
20 prohibitions shall not apply to the Oklahoma Veterans Centers.

21 SECTION 6. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 1-1530 of Title 63, unless there
23 is created a duplication in numbering, reads as follows:

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1 The Oklahoma State Department of Health and the Department of
2 Mental Health and Substance Abuse Services shall work together to
3 develop new and innovative strategies to prevent tobacco use by
4 minors.

5 SECTION 7. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 1-1531 of Title 63, unless there
7 is created a duplication in numbering, reads as follows:

8 A. Smoking remains the number one preventable cause of death in
9 Oklahoma, killing more people than AIDS, alcohol, car accidents,
10 illegal drugs, murders and suicides combined. Eighty-eight thousand
11 Oklahoma children alive today will die prematurely of smoking-
12 related illnesses. Increasing the price point of cigarettes is the
13 single most effective strategy to reduce cigarette consumption by
14 deterring children and adolescents from taking up smoking, by
15 reducing the overall consumption of cigarettes by an estimated
16 26,000,000 cigarette packs in the first year, by reducing the
17 prevalence of adult smoking by an estimated five percent (5%), by
18 preventing an estimated 28,000 kids today from becoming adult
19 smokers, and by reducing health-related disparities among income
20 groups over time. For the reasons stated and in furtherance of the
21 stated purpose of this act, there shall be assessed by the Oklahoma
22 Tax Commission a smoking cessation fee on cigarettes, to be remitted
23 by every wholesaler, as provided in subsection B of this section.

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1 B. The fee provided in this subsection shall be One Dollar and
2 fifty cents (\$1.50) per twenty (20) cigarette package, and a
3 proportionate rate on fractions thereof.

4 C. Beginning on the effective date of this act, and all
5 subsequent years, the smoking cessation fee provided by this section
6 shall be apportioned by the Oklahoma Tax Commission and transmitted
7 to the State Treasurer, who shall deposit the same in the State
8 Treasury to the credit of the following funds in the following
9 percentages:

10 a. One Million Dollars (\$1,000,000.00) to the ABLE
11 Commission Revolving Fund created in Section 567 of
12 Title 37 of the Oklahoma Statutes for the purpose of
13 enhanced enforcement of the provisions of Section
14 600.13 of Title 37 of the Oklahoma Statutes, and

15 b. all amounts in excess of One Million Dollars
16 (\$1,000,000.00) to the credit of the Health Care
17 Enhancement Fund created in Section 8 of this act.

18 D. For purposes of this section "cigarette" and "wholesaler"
19 shall have the same meaning as in Section 301 of Title 68 of the
20 Oklahoma Statutes.

21 E. The Oklahoma Tax Commission shall promulgate rules as needed
22 to implement the provisions of this section.

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1 SECTION 8. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1-1532 of Title 63, unless there
3 is created a duplication in numbering, reads as follows:

4 There is hereby created in the State Treasury a fund to be
5 designated the "Health Care Enhancement Fund". The fund shall be a
6 continuing fund, not subject to fiscal year limitations, and shall
7 consist of monies received pursuant to Section 7 of this act and any
8 monies designated to the fund by law. All monies accruing to the
9 credit of the fund shall be appropriated at the discretion of the
10 Legislature for the purpose of enhancing the health of Oklahomans.

11 SECTION 9. NEW LAW A new section of law not to be
12 codified in the Oklahoma Statutes reads as follows:

13 For the purpose of ensuring maximum wholesaler compliance with
14 remittance of the smoking cessation fee, the Oklahoma Tax Commission
15 shall not sell cigarette excise tax stamps to any wholesaler in
16 excess of the amount of the monthly average amount of such excise
17 tax stamps sold to such wholesaler during the preceding calendar
18 year prior to the effective date of this act. Provided, the
19 wholesaler may purchase in excess of the monthly average purchased
20 during the preceding calendar year upon documentation, to the Tax
21 Commission's satisfaction, of probable sales greater than the
22 wholesaler's sales in the preceding calendar year.

23 SECTION 10. It being immediately necessary for the preservation
24 of the public peace, health or safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

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4 DIRECT TO CALENDAR.

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