

An Act

ENROLLED SENATE
BILL NO. 845

By: David and Fields of the
Senate

and

Osborn (Leslie) and Wallace
of the House

An Act relating to public health; providing short title; creating the Smoking Cessation and Prevention Act of 2017; expressing legislative intent; amending 63 O.S. 2011, Section 1-1525, which relates to owner prevention of smoking in nonsmoking areas; requiring signage in additional locations; directing certain agencies to inform the public of the danger of using tobacco products in a motor vehicle where certain children are present; prohibiting the use of tobacco products in certain properties; providing exception; directing certain agency collaboration for certain purpose; expressing legislative intent and findings; assessing a smoking cessation fee on the wholesale sale of cigarettes; providing fee amounts; providing 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; and providing for codification.

SUBJECT: Smoking Cessation and Prevention Act of 2017

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

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

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

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

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

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

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

1. Post conspicuous signs at entrances to and in prominent locations within places where smoking is prohibited which state that smoking is prohibited or that the indoor environment is free of tobacco smoke; and

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

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

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

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

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

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

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

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

A. Smoking remains the number one preventable cause of death in Oklahoma, killing more people than AIDS, alcohol, car accidents, illegal drugs, murders and suicides combined. Eighty-eight thousand Oklahoma children alive today will die prematurely of smoking-related illnesses. Increasing the price point of cigarettes is the single most effective strategy to reduce cigarette consumption by deterring children and adolescents from taking up smoking, by reducing the overall consumption of cigarettes by an estimated 26,000,000 cigarette packs in the first year, by reducing the prevalence of adult smoking by an estimated five percent (5%), by preventing an estimated 28,000 kids today from becoming adult smokers, and by reducing health-related disparities among income groups over time. For the reasons stated and in furtherance of the stated purpose of this act, there shall be assessed by the Oklahoma

Tax Commission a smoking cessation fee on cigarettes, to be remitted by every wholesaler, as provided in subsection B of this section.

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

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

- a. One Million Dollars (\$1,000,000.00) to the ABLE Commission Revolving Fund created in Section 567 of Title 37 of the Oklahoma Statutes for the purpose of enhanced enforcement of the provisions of Section 600.13 of Title 37 of the Oklahoma Statutes, and
- b. all amounts in excess of One Million Dollars (\$1,000,000.00) to the credit of the Health Care Enhancement Fund created in Section 8 of this act.

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

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

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

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

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

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

Passed the Senate the 24th day of May, 2017.

Stephanie L. Rice
Presiding Officer of the Senate

Passed the House of Representatives the 26th day of May, 2017.

B. Hank Wright
Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 26th

day of May, 20 ~~16~~ 17 at 4:43 o'clock P M.

By: Audrey Lockwell

Approved by the Governor of the State of Oklahoma this 31st

day of May, 20 17, at 11:15 o'clock A M.

L. Mary Fallin
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 31st

day of May, 20 17, at 12:45 o'clock P. M.

By: Dave Jarr