



MEMORANDUM

Council Agenda
Item No. XI.A.
12/22/2015

The City of OKLAHOMA CITY

TO: Mayor and City Council

FROM: Kenneth Jordan, Municipal Counselor

Ordinance on final hearing, relating to Miscellaneous Provisions And Offenses, amending Chapter 30 of the Oklahoma City Municipal Code, 2010, Sections 30-450, Definitions, 30-451, Furnishing of Tobacco Products to Minors Prohibited, Proof of Age, Fines, Employee and Employer Liability, 30-452, Purchase, Receipt or Possession of Tobacco Products by Minors Prohibited, Falsifying Proof of Age, Penalties, Notification of Parent or Guardian, 30-453, Distribution of Tobacco Product Samples Restricted, Fines, 30-454, Sale of Tobacco Products except in Original, Sealed Packaging Prohibited, Fine, 30-455, Public Access to Displayed Tobacco, adding a new Section 30-455, Public Access to Displayed Tobacco or Vapor Products, Assistance from Store Owner or Other Required, Fine, and renumbering and amending Section 30-455, Reporting, as Section 30-456. Councilmembers Shadid, McAtee, White, and Pettis Jr.

Purpose The Municipal Counselor's Office prepared the ordinance at the request of Councilman White to incorporate the statutory prohibitions regarding possession and use of vapor products by minors and furnishing such products to minors. Other amendments that have been made to the Prevention of Youth Access to Tobacco Act over the last few years have also been added to the proposed amendment to the extent allowed by the Act.

Background The Prevention of Youth Access to Tobacco Act is State law and preempts the field, allowing municipalities to only enforce certain provisions and to be no more stringent than the penalties allowed by statute. Last year, the Act was amended to prohibit minors from possessing or using "vapor" products (such as electronic cigarettes) and the Act and Title 21 of the Oklahoma Statutes were amended to prohibit the furnishing of vapor products to minors. In short, the same prohibitions regarding cigarettes and minors now apply to vapor products.

The proposed amendments would also make it unlawful to distribute tobacco products, vapor products or product samples to minors, regulates the display of tobacco and vapor products in retail stores that admit minors, provides for statutory defenses and makes other changes for consistency with state law.

Municipalities must limit misdemeanor penalties to the amounts provided by statute and changes to those amounts are included in the proposed amendment. The Act now allows the City to enforce a limited class "b" offense for second and subsequent violations of furnishing tobacco and vapor products to minors,

the penalty for which will be up to a \$200 fine plus costs and up to 90 days in jail. All other offenses are limited to class “a” penalties varying from \$100 to \$300 plus costs.

Review Office of Municipal Counselor.

Recommendation: Ordinance be adopted.

Attachments