

Oklahoma Tobacco Settlement Endowment Trust Board of Directors: Recommendations on Improving Retailer Compliance for Tobacco Purchases.

August, 2023

WHEREAS, the Oklahoma Tobacco Settlement Endowment Trust (TSET) was created by voters in 2000 and has a constitutional mandate to support strategies and programs designed to maintain or improve the health of Oklahomans; and

WHEREAS, in 2006, a U.S. court found major tobacco companies guilty of racketeering, fraud, and conspiracy. The court found that the companies had deceived the public and lawmakers about the harms of smoking for decades. Tobacco industry lobbyists also worked to prevent cities from enacting stricter tobacco control laws in Oklahoma; and

WHEREAS, smoking remains the leading cause of preventable death in the U.S and in Oklahoma despite progress in reducing the smoking rate to below 17%. Every year, 7,500 Oklahomans die from smoking related illnesses. Tobacco costs the state over \$1.88 billion in smoking-related health costs annually;¹ and

WHEREAS, almost 9 out of 10 adults who smoke cigarettes daily started smoking before the age of 18.² Each year 6,500 Oklahoma kids under 18 years of age try cigarettes for the first time³ and almost 22% of Oklahoma high school youth have reported vaping regularly. The age to purchase tobacco was increased from 18 to 21 in recent years; and

WHEREAS, Tobacco retailers play a direct role in protecting youth from tobacco use by not selling to them. These retailers include grocery stores, gas stations, convenience stores, pharmacies and others; and

WHEREAS, the federal fiscal year 2023 retailer violation rate (RVR) in Oklahoma is 20.2%.⁴, with more than 1 in 5 retailers illegally selling tobacco to minors, jeopardizing a portion of Oklahoma's federal mental health funding;⁵and

WHEREAS, retail outlets are the main marketing venue for tobacco products, with tobacco companies spending an estimated \$149.5 million annually to market their addictive products to Oklahomans.⁶ A court order went into effect in July 2023 that requires tobacco companies to post signs about the deadly consequences of cigarette smoking at tobacco retail stores across the U.S; and

WHEREAS, ensuring compliance by tobacco retailers to purchase tobacco licenses and follow the minimum legal sales age of 21 is important to ensure minors cannot purchase tobacco products; and

¹ <https://www.tobaccofreekids.org/problem/toll-us/oklahoma>

² https://www.cdc.gov/tobacco/data_statistics/fact_sheets/youth_data/tobacco_use/index.htm

³ <https://www.tobaccofreekids.org/problem/toll-us/oklahoma>

⁴ <https://oklahoma.gov/odmhsas/prevention/business/synar-compliance.html>

⁵ The Substance Abuse and Mental Health Services Administration may withhold a portion of a state's mental health block grant funding if tobacco retailer noncompliance exceeds 20%.

⁶ <https://www.tobaccofreekids.org/problem/toll-us/oklahoma>

WHEREAS, at \$30 every three years, retailer tobacco licenses are inexpensive compared to the high price of tobacco produces. Likewise, fines for noncompliance are low compared to the health and financial costs of youth tobacco addiction: \$100 for a first offense and up to \$300 for a second offense,⁷ assessed against the clerk but not the store.⁸ Retailer licenses may be temporarily revoked but, during FY 2022, no permits or licenses of tobacco retailers were revoked, but 133 fines were assessed for selling tobacco to youth;⁹ and

WHEREAS, the penalties for underage liquor sales in our state are much higher. It costs between \$1,000 to \$5,000 for an establishment to receive a license to sell alcoholic beverages. Anyone caught selling or giving alcohol to a person under twenty-one can be fined up to \$500 for the first violation and someone convicted of a second violation can be fined at least \$2,500 up to \$5,000. Both the clerk and the store are fined;¹⁰ and

WHEREAS, penalties for selling a deadly product—tobacco—to minors should be increased. By implementing stronger tobacco control measures, retailers will be encouraged to train employees to comply with tobacco laws. This will improve tobacco sales compliance, provide more enforcement funding and more youth will be protected from tobacco and its deadly effects.

BE IT THEREFORE RESOLVED, the TSET Board of Directors supports local and statewide efforts to:

- Educate about the need for stronger retail licensure with penalties that hold retailers accountable instead of only clerks or youth.
- Continue efforts aimed at increasing tobacco retailer compliance including retailer education training and more compliance checks.
- Increase signage about prohibiting tobacco sales to minors.
- Encourage localities to adopt ordinances to conduct tobacco compliance checks.
- Encouraging employers to require merchant education to improve compliance.

FURTHERMORE, BE IT THEREFORE RESOLVED, the TSET Board of Directors calls on the Oklahoma State Legislature to enact legislation in support of these aims by:

- Increasing fines for businesses who illegally sell tobacco to underage individuals, aligning them with fines levied for selling alcohol to minors. This would cover more administrative and enforcement costs.
- Enact a comprehensive licensing structure that includes all nicotine and vaping products.
- Implementing an obligation for employees to undergo retraining after each violation to ensure they are informed about tobacco purchase requirements.
- Limiting the density, number, and location of tobacco retailers when possible.
- Expanding oversight by increasing the frequency of annual compliance checks required per retailer.
- Increasing the duration of tobacco license suspension for repeated violations.
- Requiring retailers to use a scanning system to verify age identification legitimacy.

⁷ <https://tobaccoretaillicensure.heart.org/states-pods/oklahoma/>

⁸ <https://oklahoma.gov/content/dam/ok/en/odmhsas/documents/prevention/synar-compliance/FFY2023%20ASR.pdf>

⁹ §63-1-229.13

¹⁰ <https://oklahoma.gov/able-commission.html>

FURTHERMORE, BE IT THEREFORE RESOLVED, the TSET Board of Directors respectively recommends the adoption of the aforementioned policies and strategies to strengthen retailer compliance for tobacco policies.

THE TSET BOARD OF DIRECTORS hereby calls upon other interested groups and governing bodies to adopt similar resolutions.