

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

HOUSE BILL NO. 1015

By: Cotner

AS INTRODUCED

An Act relating to public health and safety; amending 63 O.S. 1991, Sections 1-1522 and 1-1523, which relate to the Smoking in Public Places Act; modifying definition; prohibiting smoking in certain nursing facilities and certain child care facilities; providing penalties; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 63 O.S. 1991, Section 1-1522, is amended to read as follows:

Section 1-1522. A. As used in this act:

1. "Educational facility" means a building owned, leased or under the control of a public or private school system, college or university;

2. "Health facility" means an entity which provides health services, including but not limited to hospitals, ~~nursing homes,~~ long-term care facilities, kidney disease treatment centers, health maintenance organizations and ambulatory treatment centers;

3. "Licensed premises" means any portion of a building, structure, room or enclosure located on real estate which is owned, leased, used, controlled or operated by a licensee authorized by the

Alcoholic Beverage Laws Enforcement Commission to sell liquor for consumption on the premises, but shall not include a separate or enclosed lounge or bar area as specified in Section 598 of Title 37 of the Oklahoma Statutes, service organizations or fraternal beneficiary societies which are exempt under Section 501(c)(8)(10) or (19) of the Internal Revenue Code, a licensed premises that is part of a bowling alley area, or a racetrack licensed by the Oklahoma Racing Commission;

4. "Meeting" means a meeting as defined in the Open Meeting Act, Section 304 of Title 25 of the Oklahoma Statutes;

5. "Public body" means a public body as defined in the Open Meeting Act, Section 304 of Title 25 of the Oklahoma Statutes;

6. "Public place" means:

- a. an enclosed, indoor area owned or operated by a state or local governmental agency and used by the general public or serving as a place of work for public employees or a meeting place for a public body, including an office, educational facility, health facility, auditorium, arena, meeting room or public conveyance, or
- b. an enclosed, indoor area which is not owned or operated by a state or local governmental agency which is used by the general public and which is:
 - (1) an educational facility,
 - (2) a health facility,
 - (3) an auditorium,
 - (4) an arena,
 - (5) a theater,
 - (6) a museum,
 - (7) a restaurant,
 - (8) licensed premises,
 - (9) a concert hall, and

(10) any other facility during the period of its use
for a performance or exhibit of the arts;

7. "Restaurant" means any eating establishment with a seating capacity of fifty persons or more; and

8. "Smoking" means the carrying by a person of a lighted cigar, cigarette, pipe or other lighted smoking device.

B. Public place shall not include a private, enclosed room or office occupied exclusively by a smoker or smokers, even if the room or enclosed office may be visited by a nonsmoker.

SECTION 2. AMENDATORY 63 O.S. 1991, Section 1-1523, is amended to read as follows:

Section 1-1523. A. No person shall smoke in a designated nonsmoking area in a public place ~~or,~~ at a meeting of a public body, in a nursing facility licensed pursuant to the Nursing Home Care Act, or in a child care facility licensed pursuant to the Oklahoma Child Care Facilities Licensing Act.

B. A health facility or educational facility may prohibit all smoking in such facility or may designate smoking and nonsmoking areas within the facility. An educational facility in which children in grades kindergarten through twelve are educated may also prohibit smoking, the use of snuff, chewing tobacco or any other form of tobacco product in the buildings and on the grounds of the facility. In an educational facility in which children in grades kindergarten through twelve are educated, smoking areas may only be designated for adults. Provided further, educational facilities in which children in grades kindergarten through twelve are educated which designate a smoking area within the facility shall also designate a nonsmoking area within the facility which may be used by school personnel for breaks, lunch or similar activities.

C. This section shall not apply to a room, hall or building used for a private function if the seating arrangements are under the control of the sponsor of the function and not under the control

of the state or local governmental agency or the person who owns or operates the room, hall or building, or to a licensed premises that is a part of a bowling alley area, or to a racetrack licensed by the Oklahoma Racing Commission.

D. This section shall not apply to areas in which prisoners are housed in municipal jails, county jails or correctional institutions as defined in Section 502 of Title 57 of the Oklahoma Statutes.

E. This section shall not apply to a separate or enclosed bar area of a licensed premise, as provided in Section 241 of Title 37 of the Oklahoma Statutes, which has as its main purpose the selling or serving of nonintoxicating beverages for consumption on the premises.

F. Any person convicted of violating subsection A of this section shall be punished as follows:

1. For a first offense, the imposition of a fine not to exceed One Hundred Dollars (\$100.00); and

2. For a second or subsequent offense, imprisonment in the county jail for not more than thirty (30) days, or by the imposition of a fine not to exceed Five Hundred Dollars (\$500.00), or by both such imprisonment and fine.

SECTION 3. This act shall become effective July 1, 1993.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

44-1-5103

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