

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

HOUSE BILL NO. 1087

By: Roach

AS INTRODUCED

An Act relating to public health and safety; amending 63 O.S. 1991, Sections 1-1522, 1-1523 and 1-1524, as amended by Sections 14 and 15, Chapter 137, O.S.L. 1994 (63 O.S. Supp. 1994, Sections 1-1523 and 1-1524), which relate to the Smoking in Public Places Act; defining term; authorizing municipal facilities to prohibit smoking; authorizing municipal facilities to have municipal facilities designated entirely nonsmoking or smoking; 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. "Municipal facility" means a building owned or leased by a city, town or a public trust which has as its beneficiary a city or town;

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

~~6.~~ 7. "Public place" means:

- a. an enclosed, indoor area, other than a municipal facility, 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.~~ 8. "Restaurant" means any eating establishment with a seating capacity of fifty persons or more; and

~~8.~~ 9. "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, as amended by Section 14, Chapter 137, O.S.L. 1994 (63 O.S. Supp. 1994, 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, at a meeting of a public body, in a nursing facility licensed pursuant to the Nursing Home Care Act, Section 1-1901 et seq. of this title, or in a child care facility, during hours of operation, licensed pursuant to the Oklahoma Child Care Facilities Licensing Act, Section 401 et seq. of Title 10 of the Oklahoma Statutes. A nursing facility licensed pursuant to the Nursing Home Care Act may designate smoking areas for residents and their guests. Nursing facilities may designate smoking areas for employees if such designated areas are in separate rooms that are not used by residents.

B. A health facility ~~or~~, educational facility or municipal 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 and must be separately ventilated. 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.

SECTION 3. AMENDATORY 63 O.S. 1991, Section 1-1524, as amended by Section 15, Chapter 137, O.S.L. 1994 (63 O.S. Supp. 1994, Section 1-1524), is amended to read as follows:

Section 1-1524. A. Smoking and nonsmoking areas shall be designated by the state or local governmental agency or the person who owns or operates a public place, except in a public place in which smoking is prohibited by law. A restaurant or municipal facility may have designated smoking and nonsmoking areas or may be designated as being a totally smoking area or a totally nonsmoking area. Existing physical barriers and ventilation systems shall be used to minimize smoke in both smoking and adjacent nonsmoking areas.

B. In the case of a public place consisting of a single room, the state or local governmental agency or the person who owns or operates the single room shall be in compliance with this act if an area of the room is reserved and posted as a nonsmoking area.

SECTION 4. This act shall become effective July 1, 1995.

SECTION 5. 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.

45-1-5785

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