

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

CONFERENCE COMMITTEE SUBSTITUTE  
FOR ENGROSSED  
HOUSE JOINT  
RESOLUTION NO. 1011

By: Vaughn and Nance of the  
House

and

Robinson of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

A Joint Resolution directing the Secretary of State to refer to the people for their approval or rejection a proposed amendment to the Constitution of the State of Oklahoma by adding a new Section 14 to Article XXIII; prohibiting smoking in workplaces; providing exceptions; defining terms; providing ballot title; and directing filing.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE 1ST SESSION OF THE 49TH OKLAHOMA LEGISLATURE:

SECTION 1. The Secretary of State shall refer to the people for their approval or rejection, as and in the manner provided by law, the following proposed amendment to the Constitution of the State of Oklahoma by adding a new Section 14 to Article XXIII thereof, to read as follows:

Section 14. A. To reduce exposure to secondhand smoke and its adverse health effects, smoking shall not be allowed inside enclosed workplaces, except as provided in subsections B and C of this section.

B. 1. The provisions of subsection A of this section shall not apply to:

- a. stand-alone bars, stand-alone taverns and cigar bars,
- b. charitable bingo operations,

- c. up to twenty-five percent (25%) of the guest rooms at a hotel or other lodging establishment,
- d. retail tobacco stores,
- e. veterans' organizations,
- f. workplaces where only the owner or operator of the workplace, or the immediate family of the owner or operator, performs any work in the workplace, and the workplace has only incidental public access,
- g. workplaces occupied exclusively by one or more smokers if the workplace has only incidental public access,
- h. offices occupied exclusively by one or more smokers if the office has only incidental public access,
- i. workplaces within private residences, except that smoking shall not be allowed inside any private residence that is used as a licensed child care facility, and
- j. medical research or treatment centers, if smoking is integral to the research or treatment.

2. Any workplace exempted in paragraph 1 of this subsection that is within the same building or otherwise shares an indoor space with any nonsmoking area shall be fully enclosed and exhausted directly to the outside in such a manner that no smoke can drift or circulate into a nonsmoking area, if the exempted workplace is to permit smoking.

C. A workplace not otherwise restricted from doing so may elect to provide smoking rooms where no work is performed, except for cleaning and maintenance during times the rooms are not in use for working, provided each smoking room is fully enclosed and exhausted directly to the outside in such a manner that no smoke can drift or circulate into a nonsmoking area.

D. Any employer may choose a more restrictive smoking policy, including being totally smoke free.

E. To prevent contamination of indoor air and to provide smoke-free access to buildings, tobacco smoking shall not be allowed outside within fifteen (15) feet of any entrance, exit, or air intake of any workplace that includes a nonsmoking area.

F. The possession of lighted tobacco by any person in any form in any area required by this section to be a nonsmoking area is a public nuisance, is dangerous to public health, and constitutes a misdemeanor. An employer who knowingly permits the possession of lighted tobacco in any form in any area required by this section to be a nonsmoking area shall be deemed to be maintaining a public nuisance and a danger to public health. Such act by an employer shall constitute a misdemeanor.

G. Employers shall post appropriate signage and ask anyone smoking in nonsmoking areas to refrain from smoking.

H. Compliance with this section by employers shall be considered by all boards and agencies of the state and its political subdivisions as an incorporated standard of operation together with and in the same manner as all other standards of operation required by law, regulation, rule, or ordinance enforced by the board, agency, or political subdivision.

I. This section shall not prevent the enactment of statutes, or ordinances to the extent permitted by law more restrictive than this section to further protect the public and workers from secondhand tobacco smoke exposure.

J. As used in this section:

1. "Charitable bingo operations" means the room or rooms where licensed charitable bingo games are being operated, but only during the hours of operation of such games;

2. "Employer" means the person in control of each workplace;

3. "Workplace" means any indoor place of employment or employment-type service for or at the request of another individual or individuals or any public or private entity, whether part-time or

full-time and whether for compensation or not. These services include, without limitation, any such service performed by an owner, employee, independent contractor, agent, partner, proprietor, manager, officer, director, apprentice, trainee, associate, servant, or volunteer. A workplace includes work areas, employee lounges and restrooms, conference and classrooms, employee cafeterias and hallways, and other spaces used or visited by employees. It includes all space between a floor and ceiling that is predominantly or totally enclosed by walls or windows, regardless of doors, doorways, open or closed windows, stairways, or the like. This section applies to such enclosed workplaces without regard to whether work is occurring at any given time;

4. "Nonsmoking area" means any area in which smoking is not allowed by the owner or operator of the area, by this section, or by any legal order, statute, or ordinance;

5. "Retail tobacco store" means a store predominantly engaged in the sale of tobacco products and accessories and in which the sale of other products is merely incidental and in which no food or beverage is sold or served for consumption;

6. "Smoking" means the possession of any lighted tobacco product in any form;

7. "Stand-alone bar", "stand-alone tavern", and "cigar bar" mean a facility that is devoted predominantly or totally to serving alcohol, low-point beer, or tobacco for consumption on the premises; in which the serving of food other than such beverages, if any, is limited to prepackaged foods with no food preparation at the facility; and that is not located within, and does not share any common entryway or common indoor area with, any other enclosed workplace including a restaurant; and

8. "Veterans' organization" means a facility operated by a post or organization of past or present members of the Armed Forces of the United States which is exempt under Section 501(c)(19) of the

Internal Revenue Code when such facility is used exclusively by its members and for the conduct of post or organization nonprofit operations, except during an event or activity which is open to the public.

K. This amendment shall become effective ninety (90) days following its approval by the voters.

SECTION 2. The Ballot Title for the proposed Constitutional amendment as set forth in SECTION 1 of this resolution shall be in the following form:

BALLOT TITLE

Legislative Referendum No. \_\_\_\_\_ State Question No. \_\_\_\_\_

THE GIST OF THE PROPOSITION IS AS FOLLOWS:

This measure amends the Oklahoma Constitution. It adds a new Section 14 to Article 23. It restricts smoking in workplaces. This is because of secondhand smoke. The measure defines what places are workplaces. They are indoor places of employment. It also makes exceptions to the smoking restriction. Various types of workplaces would be exempt, but the smoke cannot drift into a nonsmoking area. Employers would be allowed to provide smoking rooms. The smoking room must be fully enclosed. No work could be done in the smoking room except for cleaning. No smoke could drift into a nonsmoking area from the smoking room. This measure allows the Legislature to pass laws to further protect the workers and the public from the health effects of tobacco smoke.

SHALL THE PROPOSAL BE APPROVED?

FOR THE PROPOSAL - YES \_\_\_\_\_

AGAINST THE PROPOSAL - NO \_\_\_\_\_

SECTION 3. The Chief Clerk of the House of Representatives, immediately after the passage of this resolution, shall prepare and file one copy thereof, including the Ballot Title set forth in

SECTION 2 hereof, with the Secretary of State and one copy with the Attorney General.

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