STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

COMMITTEE SUBSTITUTE
FOR HOUSE JOINT
RESOLUTION NO. 1011 By: Vaughn

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 indoor workplaces; providing exceptions; defining terms; providing ballot title; directing filing; and ordering a special election.

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 is hereby not allowed inside enclosed indoor workplaces, except as provided in subsections B and C of this section.

B. 1. This restriction of smoking shall not apply to stand-alone bars and stand-alone taverns.

2. This restriction of smoking shall not apply to private restaurants and private clubs for the use of only its membership.

3. In addition, this restriction of smoking shall not apply to the following:

a. charitable bingo operations,

b. up to twenty-five percent (25%) of the guest rooms at a hotel or other lodging establishment,

c. retail tobacco stores,

d. 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,

e. workplaces occupied exclusively by one or more smokers if the workplace has only incidental public access,

f. private offices occupied exclusively by one or more smokers,

g. 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

h. medical research or treatment centers, if smoking is integral to the research or treatment.

4. Any indoor workplace exempted in paragraph 2 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. An indoor workplace not otherwise restricted from doing so may elect to provide smoking rooms where no work is required to be performed 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 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 indoor workplace that includes a nonsmoking area, however, the fifteen-feet requirement shall not apply to secondary exits used for the sole purpose of providing a designated smoking 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. The following definitions apply to terms 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. “Indoor workplace” means any 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. An indoor 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 indoor 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;

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

7. "Stand-alone bar" and "stand-alone tavern" mean places devoted predominantly or totally to serving alcohol and/or low-point beer for consumption on the licensed premises; in which the serving of food other than such beverages, if any, is merely incidental to the consumption of any such beverage; and that are not located within, and do not share any common entryway or common indoor area with, any other enclosed indoor workplaces including any businesses for which the sale of food other than such beverages or any other product or service is more than an incidental source of gross revenue.

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 indoor workplaces. This is because of secondhand smoke. The measure defines what places are indoor workplaces. They are indoor places of employment. It also makes exceptions to the smoking restriction. Stand-alone bars and stand-alone taverns would be totally exempt from the restrictions. Other 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 required to be done in the smoking room. 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 THIS AMENDMENT BE APPROVED BY THE PEOPLE?

☐ YES, FOR THE AMENDMENT

☐ NO, AGAINST THE AMENDMENT

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.

SECTION 4. A special election is hereby ordered to be held throughout the State of Oklahoma on the date of the next special

election scheduled to be held throughout the state or the next general election, whichever is earliest, at which time the proposed amendment to the Constitution of the State of Oklahoma, as set forth in SECTION 1 of this resolution, shall be submitted to the people of Oklahoma for their approval or rejection as and in the manner provided by law.

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