

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL 566

By: Robinson of the Senate

and

Vaughn of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to smoking in public places; amending 21 O.S. 2001, Section 1247, as last amended by Section 2, Chapter 377, O.S.L. 2002 (21 O.S. Supp. 2002, Section 1247), which relates to prohibition against smoking in public places; modifying places in which possession of lighted tobacco constitutes a public nuisance and danger to the public; defining term; providing exemptions; providing requirements for exempt workplaces; providing for smoking rooms; allowing workplaces to choose a more restrictive smoking policy; disapproving certain proposed permanent rules; directing distribution; providing for noncodification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 21 O.S. 2001, Section 1247, as last amended by Section 2, Chapter 377, O.S.L. 2002 (21 O.S. Supp. 2002, Section 1247), is amended to read as follows:

Section 1247. A. The possession of lighted tobacco in any form is a public nuisance and dangerous to public health, and is hereby prohibited when such possession is in ~~any of the following places:~~

1. Any indoor place used by or open to the public;

~~1. Elevators;~~

2. ~~Indoor movie theaters and other indoor theaters~~ Public transportation; or

3. ~~Libraries, art galleries, museums, indoor roller skating rinks of a permanent structure with permanent walls and concert halls;~~

4. ~~Buses; and~~

5. ~~a. Any indoor workplace, except where specifically allowed by law. As used in this section, "indoor 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. Such services shall include, without limitation, any 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, restrooms, conference rooms, classrooms, employee cafeterias, hallways, any other spaces used or visited by employees, and 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. The provisions of this section shall apply to such indoor workplace at any given time, whether or not work is being performed.~~

B. All buildings, or portions thereof, owned or operated by this state shall be designated as nonsmoking; provided, however, each building may have one designated smoking room. As used in this paragraph, "buildings" shall not include up to twenty-five percent (25%) of any hotel or motel rooms rented to guests ~~and rooms associated with the facilities in which the rooms are located in which children under twenty-one (21) years of age are not allowed if the rooms are properly ventilated so that smoke is not circulated to nonsmoking areas.~~

~~b.~~

C. All buildings, or portions thereof, owned or operated by a county or municipal government, at the discretion of the county or municipal governing body, may be designated as entirely nonsmoking, ~~or may be designated as nonsmoking with one designated smoking room,~~ ~~or may remain under the smoking policy in effect on the effective date of this act.~~

~~e.~~

D. A smoking room as provided for in ~~subparagraphs a and b~~ subsections B and C of this paragraph section:

~~(1) shall~~

1. Shall not be used for the conduct of public business;

~~(2) shall~~

2. Shall be in a location which is fully enclosed, directly exhausted to the outside, under negative air pressure so smoke cannot escape when a door is opened, and no air is recirculated to nonsmoking areas of the building. No smoking exhaust shall be located within twenty-five (25) feet of any entrance, exit or air intake; and

~~(3) shall~~

3. Shall be verified for compliance with the provisions of this ~~paragraph~~ subsection by the Department of Central Services for state buildings, by a county entity designated by the board of county commissioners for county buildings, or by a municipal entity designated by the municipal governing body for municipal buildings.

~~d.~~

E. No smoking shall be allowed within twenty-five (25) feet of ~~the~~ any entrance or, exit or air intake of any building specified in subsections B and C of this subsection section.

~~Provided, however, that in indoor movie theaters and other indoor theaters, libraries, art galleries, museums, indoor roller skating rinks of a permanent structure with permanent walls and~~

~~concert halls, certain areas separated from the principal room or rooms of the facility may be posted as "SMOKING PERMITTED" areas; provided further, that portions of buses may be posted "SMOKING PERMITTED" if such posting is pursuant to authorization by the Interstate Commerce Commission, the Oklahoma Corporation Commission or a city ordinance.~~

B. F. The restrictions provided in subsection A of this section shall not apply to the following:

1. Stand-alone bars, stand-alone taverns and cigar bars that are 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 on the premises, and that are not located within, and that do not share any common entryway or common indoor area with any other indoor workplace, including a restaurant;

2. A room or rooms where licensed charitable bingo games are operated, but only during the hours of operation of such games;

3. Up to twenty-five percent (25%) of the guest rooms at a hotel or other lodging establishment;

4. Retail tobacco stores predominantly engaged in the sale of tobacco products and accessories, in which the sale of other products is merely incidental, and in which no food or beverage is sold or served for consumption on the premises;

5. 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 where public access to the workplace is only incidental;

6. Workplaces occupied exclusively by one or more smokers if public access to the workplace is only incidental;

7. Offices occupied exclusively by one or more smokers if public access to the office is only incidental;

8. Veterans organizations operated by a post or organization of past or present members of the Armed Forces of the United States that are exempt under paragraph 19 of subsection (c) of Section 501 of the Internal Revenue Code when such facilities are used exclusively by such members for post or organization nonprofit operations, except during events or activities that are open to the public;

9. Workplaces within private residences; provided, however, smoking shall not be allowed inside any private residence that is licensed as a child care facility; and

10. Medical research or treatment centers if smoking is integral to the research or treatment.

G. Any indoor workplace that is exempt under the provisions of subsection F of this section and 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 the nonsmoking area, if the exempt workplace will permit smoking.

H. An employer, not otherwise restricted from doing so, may elect to provide smoking rooms where no work is performed, with the exception of cleaning and maintenance, during periods in which the rooms are not in use for smoking; provided, such smoking rooms 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. No exhaust from a smoking room shall be located within fifteen (15) feet of any entrance, exit or air intake.

I. Except as provided in subsection E of this section, smoking is not allowed within fifteen (15) feet of any entrance, exit or air intake of any indoor workplace that includes a nonsmoking area.

J. An employer may enact a smoking policy that is more restrictive than the provisions of this act including, but not limited to, a totally smoke-free policy.

K. 1. The person who owns or operates a place where smoking or tobacco use is prohibited by law shall be responsible for posting a sign or decal, at least four (4) inches by two (2) inches in size, at each entrance to the building indicating that the place is smoke-free or tobacco-free.

~~C. 2.~~ Responsibility for posting signs or decals shall be as follows:

~~1. In~~

a. in privately owned facilities, the owner or lessee, if a lessee is in possession of the facilities, ~~shall be responsible;~~

~~2. In~~

b. in corporately owned facilities, the manager and/or supervisor of the facility involved ~~shall be responsible;~~ and

~~3. In~~

c. in publicly owned facilities, the manager and/or supervisor of the facility ~~shall be responsible.~~

~~F. L.~~ Any person who knowingly violates this act is guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than Ten Dollars (\$10.00) nor more than One Hundred Dollars (\$100.00).

SECTION 2. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

The Legislature hereby disapproves proposed permanent rules OAC 310:99-1-1, OAC 310:99-1-2, OAC 310:99-3-1, OAC 310:99-3-2, OAC 310:99-3-3, OAC 310:99-5-1, OAC 310:99-5-2, OAC 310:99-5-3, OAC 310:99-5-4, OAC 310:99-5-5, OAC 310:99-5-6, OAC 310:99-7-1, OAC 310:99-7-2, OAC 310:99-7-3, OAC 310:99-7-4, OAC 310:99-7-5, OAC 310:99-7-6, OAC 310:99-7-7, OAC 310:99-7-8, OAC 310:99-7-9, OAC 310:99-7-10, OAC 310:99-7-11, OAC 310:99-7-12, OAC 310:99-7-14, OAC 310:99-7-15, OAC 310:99-7-16, OAC 310:99-9-1, OAC 310:99-9-2, OAC

310:99-9-3, OAC 310:99-9-4, OAC 310:99-11-1, OAC 310:99-11-2, OAC 310:99-11-3, OAC 310:99-11-4, OAC 310:99-11-5, OAC 310:99-11-6, OAC 310:99-11-7, OAC 310:99-11-8 and OAC 310:99-13-1.

SECTION 3. The Secretary of State is hereby directed to distribute copies of Section 2 of this act to the Governor, the State Commissioner of Health and the Editor of "The Oklahoma Register".

SECTION 4. Section 1 of this act shall become effective November 1, 2003.

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.

49-1-1546

CJ

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