

THE HOUSE OF REPRESENTATIVES  
April 2, 2007

Committee Substitute for  
ENGROSSED  
Senate Bill No. 473

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 473 - By:  
BRANAN of the Senate and COX of the House.

An Act relating to smoking; amending 21 O.S. 2001, Section 1247, as last amended by Section 1, Senate Joint Resolution No. 21, p. 2354, O.S.L. 2003 (21 O.S. Supp. 2006, Section 1247), which relates to prohibitions on smoking; expanding prohibitions on smoking; amending 63 O.S. 2001, Section 1-1523, as amended by Section 4, Senate Joint Resolution No. 21, p. 2359, O.S.L. 2003 (63 O.S. Supp. 2006, Section 1-1523), which relates to smoking in certain public places; expanding prohibitions on smoking; and providing an effective date.

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

1           SECTION 1.    AMENDATORY    21 O.S. 2001, Section 1247, as last amended by  
2    Section 1, Senate Joint Resolution No. 21, p. 2354, O.S.L. 2003 (21 O.S. Supp. 2006,  
3    Section 1247), is amended to read as follows:

4           Section 1247. A. The possession of lighted tobacco in any form is a public nuisance  
5    and dangerous to public health and is hereby prohibited when such possession is in any  
6    indoor place used by or open to the public, all parts of a zoo to which the public may be  
7    admitted, whether indoors or outdoors, public transportation, or any indoor workplace,  
8    except where specifically allowed by law.

1 As used in this section, “indoor workplace” means any indoor place of employment  
2 or employment-type service for or at the request of another individual or individuals, or  
3 any public or private entity, whether part-time or full-time and whether for  
4 compensation or not. Such services shall include, without limitation, any service  
5 performed by an owner, employee, independent contractor, agent, partner, proprietor,  
6 manager, officer, director, apprentice, trainee, associate, servant or volunteer. An indoor  
7 workplace includes work areas, employee lounges, restrooms, conference rooms,  
8 classrooms, employee cafeterias, hallways, any other spaces used or visited by employees,  
9 and all space between a floor and ceiling that is predominantly or totally enclosed by  
10 walls or windows, regardless of doors, doorways, open or closed windows, stairways, or  
11 the like. The provisions of this section shall apply to such indoor workplace at any given  
12 time, whether or not work is being performed.

13 B. All buildings, or portions thereof, owned or operated by this state shall be  
14 designated as nonsmoking; provided, however, each building may have one designated  
15 smoking room. As used in this paragraph, “buildings” shall not include up to twenty-five  
16 percent (25%) of any hotel or motel rooms rented to guests if the rooms are properly  
17 ventilated so that smoke is not circulated to nonsmoking areas.

18 C. All buildings, or portions thereof, owned or operated by a county or municipal  
19 government, at the discretion of the county or municipal governing body, may be  
20 designated as entirely nonsmoking or may be designated as nonsmoking with one  
21 designated smoking room.

22 D. A smoking room as provided for in subsections B and C of this section:

- 1           1. Shall not be used for the conduct of public business;
- 2           2. Shall be in a location which is fully enclosed, directly exhausted to the outside,  
3 under negative air pressure so smoke cannot escape when a door is opened, and no air is  
4 recirculated to nonsmoking areas of the building. No smoking exhaust shall be located  
5 within twenty-five (25) feet of any entrance, exit or air intake; and
- 6           3. Shall be verified for compliance with the provisions of this subsection by the  
7 Department of Central Services for state buildings, by a county entity designated by the  
8 board of county commissioners for county buildings, or by a municipal entity designated  
9 by the municipal governing body for municipal buildings.
- 10          E. No smoking shall be allowed within twenty-five (25) feet of the entrance or exit  
11 of any building specified in subsection B or C of this section.
- 12          F. The restrictions provided in this section shall not apply to stand-alone bars,  
13 stand-alone taverns and cigar bars as defined in Section 1-1522 of Title 63 of the  
14 Oklahoma Statutes.
- 15          G. The restrictions provided in this section shall not apply to the following:
- 16           1. The room or rooms where licensed charitable bingo games are being operated,  
17 but only during the hours of operation of such games;
- 18           2. Up to twenty-five percent (25%) of the guest rooms at a hotel or other lodging  
19 establishment;
- 20           3. Retail tobacco stores predominantly engaged in the sale of tobacco products and  
21 accessories and in which the sale of other products is merely incidental and in which no  
22 food or beverage is sold or served for consumption on the premises;

- 1           4. Workplaces where only the owner or operator of the workplace, or the immediate  
2 family of the owner or operator, performs any work in the workplace, and the workplace  
3 has only incidental public access. “Incidental public access” means that a place of  
4 business has only an occasional person, who is not an employee, present at the business  
5 to transact business or make a delivery. It does not include businesses that depend on  
6 walk-in customers for any part of their business;
- 7           5. Workplaces occupied exclusively by one or more smokers, if the workplace has  
8 only incidental public access;
- 9           6. Private offices occupied exclusively by one or more smokers;
- 10          7. Workplaces within private residences, except that smoking shall not be allowed  
11 inside any private residence that is used as a licensed child care facility during hours of  
12 operation;
- 13          8. Medical research or treatment centers, if smoking is integral to the research or  
14 treatment;
- 15          9. A facility operated by a post or organization of past or present members of the  
16 Armed Forces of the United States which is exempt from taxation pursuant to Sections  
17 501 (c)(8), 501 (c)(10) or 501 (c)(19) of the Internal Revenue Code, 26 U.S.C., Sections 501  
18 (c)(8), 501 (c)(10) or 501 (c)(19), when such facility is utilized exclusively by its members  
19 and their families and for the conduct of post or organization nonprofit operations except  
20 during an event or activity which is open to the public; and

1           10. Any outdoor seating area of a restaurant; provided, smoking shall not be  
2 allowed within fifteen (15) feet of any exterior public doorway or any air intake of a  
3 restaurant.

4           H. An employer not otherwise restricted from doing so may elect to provide  
5 smoking rooms where no work is performed except for cleaning and maintenance during  
6 the time the room is not in use for smoking, provided each smoking room is fully enclosed  
7 and exhausted directly to the outside in such a manner that no smoke can drift or  
8 circulate into a nonsmoking area. No exhaust from a smoking room shall be located  
9 within fifteen (15) feet of any entrance, exit or air intake.

10          I. If smoking is to be permitted in any space exempted in subsections F or G of this  
11 section or in a smoking room pursuant to subsection H of this section, such smoking  
12 space must either occupy the entire enclosed indoor space or, if it shares the enclosed  
13 space with any nonsmoking areas, the smoking space shall be fully enclosed, exhausted  
14 directly to the outside with no air from the smoking space circulated to any nonsmoking  
15 area, and under negative air pressure so that no smoke can drift or circulate into a  
16 nonsmoking area when a door to an adjacent nonsmoking area is opened. Air from a  
17 smoking room shall not be exhausted within fifteen (15) feet of any entrance, exit or air  
18 intake. Any employer may choose a more restrictive smoking policy, including being  
19 totally smoke free.

20          J. Notwithstanding any other provision of this section, until March 1, 2006,  
21 restaurants may have designated smoking and nonsmoking areas or may be designated  
22 as being a totally nonsmoking area. Beginning March 1, 2006, restaurants shall be

1 totally nonsmoking or may provide nonsmoking areas and designated smoking rooms.  
2 Food and beverage may be served in such designated smoking rooms which shall be in a  
3 location which is fully enclosed, directly exhausted to the outside, under negative air  
4 pressure so smoke cannot escape when a door is opened, and no air is recirculated to  
5 nonsmoking areas of the building. No exhaust from such room shall be located within  
6 twenty-five (25) feet of any entrance, exit or air intake. Such room shall be subject to  
7 verification for compliance with the provisions of this subsection by the State  
8 Department of Health.

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

13 L. Responsibility for posting signs or decals shall be as follows:

14 1. In privately owned facilities, the owner or lessee, if a lessee is in possession of  
15 the facilities, shall be responsible;

16 2. In corporately owned facilities, the manager and/or supervisor of the facility  
17 involved shall be responsible; and

18 3. In publicly owned facilities, the manager and/or supervisor of the facility shall be  
19 responsible.

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

UNDERLINED language denotes Amendments to present Statutes.  
**BOLD FACE CAPITALIZED** language denotes Committee Amendments.  
~~Strike thru~~ language denotes deletion from present Statutes.

1 SECTION 2. AMENDATORY 63 O.S. 2001, Section 1-1523, as last amended by  
2 Section 4, Senate Joint Resolution No. 21, p. 2359, O.S.L. 2003 (63 O.S. Supp. 2006,  
3 Section 1-1523), is amended to read as follows:

4 Section 1-1523. A. Except as specifically provided in the Smoking in Public Places  
5 and Indoor Workplaces Act, no person shall smoke in a public place, in any part of a zoo  
6 to which the public may be admitted, whether indoors or outdoors, in an indoor  
7 workplace, in any vehicle providing public transportation, at a meeting of a public body,  
8 in a nursing facility licensed pursuant to the Nursing Home Care Act, or in a child care  
9 facility licensed pursuant to the Oklahoma Child Care Facilities Licensing Act. A  
10 nursing facility licensed pursuant to the Nursing Home Care Act may designate smoking  
11 rooms for residents and their guests. Such rooms shall be fully enclosed, directly  
12 exhausted to the outside, and shall be under negative air pressure so that no smoke can  
13 escape when a door is opened and no air is recirculated to nonsmoking areas of the  
14 building.

15 B. 1. Except as otherwise provided in paragraph 2 of this subsection, an  
16 educational facility which offers an early childhood education program or in which  
17 children in grades kindergarten through twelve are educated shall prohibit smoking,  
18 the use of snuff, chewing tobacco or any other form of tobacco product in the buildings  
19 and on the grounds of the facility by all persons including, but not limited to, full-time,  
20 part-time, and contract employees, during the hours of 7:00 a.m. to 4:00 p.m., during  
21 the school session, or when class or any program established for students is in session.

1           2. Career and technology centers may designate smoking areas outside of  
2 buildings, away from general traffic areas and completely out of sight of children under  
3 eighteen (18) years of age, for use by adults attending training courses, sessions,  
4 meetings or seminars.

5           3. An educational facility may designate smoking areas outside the buildings for  
6 the use of adults during certain activities or functions, including, but not limited to,  
7 athletic contests.

8           C. Nothing in this section shall be construed to prohibit educational facilities from  
9 having more restrictive policies regarding smoking and the use of other tobacco products  
10 in the buildings or on the grounds of the facility.

11          D. A private residence is not a “public place” within the meaning of the Smoking in  
12 Public Places and Indoor Workplaces Act except that areas in a private residence that  
13 are used as a licensed child care facility during hours of operation are “public places”  
14 within the meaning of the Smoking in Public Places and Indoor Workplaces Act.

15          E. Smoking is prohibited in all vehicles owned by the State of Oklahoma and all of  
16 its agencies and instrumentalities.

17          F. An employer not otherwise restricted from doing so may elect to provide smoking  
18 rooms where no work is performed except for cleaning and maintenance during the time  
19 the room is not in use for smoking, provided each smoking room is fully enclosed and  
20 exhausted directly to the outside, in such manner that no smoke can drift or circulate  
21 into a nonsmoking area. No exhaust from a smoking room shall be located within fifteen  
22 (15) feet of any entrance, exit or air intake. If smoking is to be permitted in any space

1 exempted in subsection G of this section or in a smoking room pursuant to subsection H  
2 of this section, such smoking space must either occupy the entire enclosed indoor space  
3 or, if it shares the enclosed space with any nonsmoking areas, the smoking space shall be  
4 fully enclosed, exhausted directly to the outside with no air from the smoking space  
5 circulated to any nonsmoking area, and under negative air pressure so that no smoke can  
6 drift or circulate into a nonsmoking area when a door to an adjacent nonsmoking area is  
7 opened. Air from a smoking room shall not be exhausted within fifteen (15) feet of any  
8 entrance, exit or air intake.

9 G. The Smoking in Public Places and Indoor Workplaces Act shall not prohibit  
10 smoking in:

- 11 1. Stand-alone bars, stand-alone taverns or cigar bars;
- 12 2. The room or rooms where licensed charitable bingo games are being operated,  
13 but only during the hours of operation of such games;
- 14 3. Up to twenty-five percent (25%) of the guest rooms at a hotel or other lodging  
15 establishment;
- 16 4. Retail tobacco stores predominantly engaged in the sale of tobacco products and  
17 accessories and in which the sale of other products is merely incidental and in which no  
18 food or beverage is sold or served for consumption on the premises;
- 19 5. Workplaces where only the owner or operator of the workplace, or the immediate  
20 family of the owner or operator, performs any work in the workplace, and the workplace  
21 has only incidental public access;

1           6. Workplaces occupied exclusively by one or more smokers, if the workplace has  
2 only incidental public access. “Incidental public access” means that a place of business  
3 has only an occasional person, who is not an employee, present at the business to  
4 transact business or make a delivery. It does not include businesses that depend on  
5 walk-in customers for any part of their business;

6           7. Private offices occupied exclusively by one or more smokers;

7           8. Workplaces within private residences, except that smoking shall not be allowed  
8 inside any private residence that is used as a licensed child care facility during hours of  
9 operation;

10          9. A facility operated by a post or organization of past or present members of the  
11 Armed Forces of the United States which is exempt from taxation pursuant to Sections  
12 501 (c)(8), 501 (c)(10) or 501 (c)(19) of the Internal Revenue Code, 26 U.S.C., Section 501  
13 (c)(8), 501 (c)(10) or 501 (c)(19), when such facility is utilized exclusively by its members  
14 and their families and for the conduct of post or organization nonprofit operations except  
15 during an event or activity which is open to the public;

16          10. Any outdoor seating area of a restaurant; provided, smoking shall not be  
17 allowed within fifteen (15) feet of any exterior public doorway or any air intake of a  
18 restaurant; and

19          11. Medical research or treatment centers, if smoking is integral to the research or  
20 treatment.

21          H. Notwithstanding any other provision of the Smoking in Public Places and Indoor  
22 Workplaces Act, until March 1, 2006, restaurants may have designated smoking and

1 nonsmoking areas or may be designated as being a totally nonsmoking area. Beginning  
2 March 1, 2006, restaurants shall be totally nonsmoking or may provide nonsmoking  
3 areas and designated smoking rooms. Food and beverage may be served in such  
4 designated smoking rooms which shall be in a location which is fully enclosed, directly  
5 exhausted to the outside, under negative air pressure so smoke cannot escape when a  
6 door is opened, and no air is recirculated to nonsmoking areas of the building. No  
7 exhaust from such room shall be located within twenty-five (25) feet of any entrance, exit  
8 or air intake. Such room shall be subject to verification for compliance with the  
9 provisions of this subsection by the State Department of Health.

10 SECTION 3. This act shall become effective November 1, 2007.

11 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC HEALTH, dated 03-29-07 - DO  
12 PASS, As Amended.

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