

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 HOUSE BILL 3254

By: Pittman

4
5
6 AS INTRODUCED

7 An Act relating to smoking; amending 21 O.S. 2001,
8 Section 1247, as last amended by Section 1, Chapter
9 70, O.S.L. 2007 (21 O.S. Supp. 2007, Section 1247)
10 and 63 O.S. 2001, Section 1-1523, as last amended by
11 Section 2, Chapter 70, O.S.L. 2007 (63 O.S. Supp.
12 2007, Section 1-1523), which relate to smoking in
13 public places; eliminating exemption for stand-alone
14 bars and taverns and cigar bars; prohibiting food and
15 beverage service in designated smoking rooms;
16 prohibiting the display of tobacco product promotions
17 in stores; excepting certain stores; defining term;
18 and providing an effective date.

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

20 SECTION 1. AMENDATORY 21 O.S. 2001, Section 1247, as
21 last amended by Section 1, Chapter 70, O.S.L. 2007 (21 O.S. Supp.
22 2007, Section 1247), is amended to read as follows:

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

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

16 B. All buildings, or portions thereof, owned or operated by
17 this state shall be designated as nonsmoking; provided, however,
18 each building may have one designated smoking room. As used in this
19 paragraph, "buildings" shall not include up to twenty-five percent
20 (25%) of any hotel or motel rooms rented to guests if the rooms are
21 properly ventilated so that smoke is not circulated to nonsmoking
22 areas.

23 C. All buildings, or portions thereof, owned or operated by a
24 county or municipal government, at the discretion of the county or

1 municipal governing body, may be designated as entirely nonsmoking
2 or may be designated as nonsmoking with one designated smoking room.

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

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

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

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

17 E. No smoking shall be allowed within twenty-five (25) feet of
18 the entrance or exit of any building specified in subsection B or C
19 of this section.

20 F. ~~The restrictions provided in this section shall not apply to~~
21 ~~stand-alone bars, stand-alone taverns and cigar bars as defined in~~
22 ~~Section 1 1522 of Title 63 of the Oklahoma Statutes.~~

23 G. ~~The restrictions provided in this section shall not apply to~~
24 the following:

- 1 1. The room or rooms where licensed charitable bingo games are
2 being operated, but only during the hours of operation of such
3 games;
- 4 2. Up to twenty-five percent (25%) of the guest rooms at a
5 hotel or other lodging establishment;
- 6 3. Retail tobacco stores predominantly engaged in the sale of
7 tobacco products and accessories and in which the sale of other
8 products is merely incidental and in which no food or beverage is
9 sold or served for consumption on the premises;
- 10 4. Workplaces where only the owner or operator of the
11 workplace, or the immediate family of the owner or operator,
12 performs any work in the workplace, and the workplace has only
13 incidental public access. "Incidental public access" means that a
14 place of business has only an occasional person, who is not an
15 employee, present at the business to transact business or make a
16 delivery. It does not include businesses that depend on walk-in
17 customers for any part of their business;
- 18 5. Workplaces occupied exclusively by one or more smokers, if
19 the workplace has only incidental public access;
- 20 6. Private offices occupied exclusively by one or more smokers;
- 21 7. Workplaces within private residences, except that smoking
22 shall not be allowed inside any private residence that is used as a
23 licensed child care facility during hours of operation;

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1 8. Medical research or treatment centers, if smoking is
2 integral to the research or treatment;

3 9. A facility operated by a post or organization of past or
4 present members of the Armed Forces of the United States which is
5 exempt from taxation pursuant to Sections 501 (c) (8), 501 (c) (10) or
6 501 (c) (19) of the Internal Revenue Code, 26 U.S.C., Sections 501
7 (c) (8), 501 (c) (10) or 501 (c) (19), when such facility is utilized
8 exclusively by its members and their families and for the conduct of
9 post or organization nonprofit operations except during an event or
10 activity which is open to the public; and

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

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

22 ~~F.~~ H. If smoking is to be permitted in any space exempted in
23 ~~subsections~~ subsection F ~~or~~ G of this section or in a smoking room
24 pursuant to subsection ~~H~~ G of this section, such smoking space must

1 either occupy the entire enclosed indoor space or, if it shares the
2 enclosed space with any nonsmoking areas, the smoking space shall be
3 fully enclosed, exhausted directly to the outside with no air from
4 the smoking space circulated to any nonsmoking area, and under
5 negative air pressure so that no smoke can drift or circulate into a
6 nonsmoking area when a door to an adjacent nonsmoking area is
7 opened. Air from a smoking room shall not be exhausted within
8 fifteen (15) feet of any entrance, exit or air intake. Any employer
9 may choose a more restrictive smoking policy, including being
10 totally smoke free.

11 ~~J.~~ I. Notwithstanding any other provision of this section,
12 until March 1, 2006, restaurants may have designated smoking and
13 nonsmoking areas or may be designated as being a totally nonsmoking
14 area. Beginning March 1, 2006, restaurants shall be totally
15 nonsmoking or may provide nonsmoking areas and designated smoking
16 rooms. ~~Food and~~ Designated smoking rooms are for smoking only and
17 no food or beverage may shall be served in such designated smoking
18 rooms which shall be in a location which is fully enclosed, directly
19 exhausted to the outside, under negative air pressure so smoke
20 cannot escape when a door is opened, and no air is recirculated to
21 nonsmoking areas of the building. No exhaust from such room shall
22 be located within twenty-five (25) feet of any entrance, exit or air
23 intake. Such room shall be subject to verification for compliance

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1 with the provisions of this subsection by the State Department of
2 Health.

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

8 ~~L.~~ K. Responsibility for posting signs or decals shall be as
9 follows:

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

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

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

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

20 M. All tobacco products sold in any store, except for a tobacco
21 or cigar specialty store, shall be placed in an area outside of
22 public view. All signs, posters, and displays promoting tobacco
23 products shall be prohibited from display in a store or anywhere on
24 the premises of the store. For the purposes of this subsection

1 "store" means a commercial establishment engaged in the sale of
2 goods at retail.

3 SECTION 2. AMENDATORY 63 O.S. 2001, Section 1-1523, as
4 last amended by Section 2, Chapter 70, O.S.L. 2007 (63 O.S. Supp.
5 2007, Section 1-1523), is amended to read as follows:

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

20 B. 1. Except as otherwise provided in paragraph 2 of this
21 subsection, an educational facility which offers an early childhood
22 education program or in which children in grades kindergarten
23 through twelve are educated shall prohibit smoking, the use of
24 snuff, chewing tobacco or any other form of tobacco product in the

1 buildings and on the grounds of the facility by all persons
2 including, but not limited to, full-time, part-time, and contract
3 employees, during the hours of 7:00 a.m. to 4:00 p.m., during the
4 school session, or when class or any program established for
5 students is in session.

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

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

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

18 D. A private residence is not a "public place" within the
19 meaning of the Smoking in Public Places and Indoor Workplaces Act
20 except that areas in a private residence that are used as a licensed
21 child care facility during hours of operation are "public places"
22 within the meaning of the Smoking in Public Places and Indoor
23 Workplaces Act.

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

3 F. An employer not otherwise restricted from doing so may elect
4 to provide smoking rooms where no work is performed except for
5 cleaning and maintenance during the time the room is not in use for
6 smoking, provided each smoking room is fully enclosed and exhausted
7 directly to the outside, in such manner that no smoke can drift or
8 circulate into a nonsmoking area. No exhaust from a smoking room
9 shall be located within fifteen (15) feet of any entrance, exit or
10 air intake. If smoking is to be permitted in any space exempted in
11 subsection G of this section or in a smoking room pursuant to
12 subsection H of this section, such smoking space must either occupy
13 the entire enclosed indoor space or, if it shares the enclosed space
14 with any nonsmoking areas, the smoking space shall be fully
15 enclosed, exhausted directly to the outside with no air from the
16 smoking space circulated to any nonsmoking area, and under negative
17 air pressure so that no smoke can drift or circulate into a
18 nonsmoking area when a door to an adjacent nonsmoking area is
19 opened. Air from a smoking room shall not be exhausted within
20 fifteen (15) feet of any entrance, exit or air intake.

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

23 1. ~~Stand-alone bars, stand-alone taverns or cigar bars,~~
24

1 ~~2.~~ The room or rooms where licensed charitable bingo games are
2 being operated, but only during the hours of operation of such
3 games;

4 ~~3.~~ 2. Up to twenty-five percent (25%) of the guest rooms at a
5 hotel or other lodging establishment;

6 ~~4.~~ 3. Retail tobacco stores predominantly engaged in the sale
7 of tobacco products and accessories and in which the sale of other
8 products is merely incidental and in which no food or beverage is
9 sold or served for consumption on the premises;

10 ~~5.~~ 4. Workplaces where only the owner or operator of the
11 workplace, or the immediate family of the owner or operator,
12 performs any work in the workplace, and the workplace has only
13 incidental public access;

14 ~~6.~~ 5. Workplaces occupied exclusively by one or more smokers,
15 if the workplace has only incidental public access. "Incidental
16 public access" means that a place of business has only an occasional
17 person, who is not an employee, present at the business to transact
18 business or make a delivery. It does not include businesses that
19 depend on walk-in customers for any part of their business;

20 ~~7.~~ 6. Private offices occupied exclusively by one or more
21 smokers;

22 ~~8.~~ 7. Workplaces within private residences, except that smoking
23 shall not be allowed inside any private residence that is used as a
24 licensed child care facility during hours of operation;

1 ~~9.~~ 8. A facility operated by a post or organization of past or
2 present members of the Armed Forces of the United States which is
3 exempt from taxation pursuant to Sections 501 (c) (8), 501 (c) (10) or
4 501 (c) (19) of the Internal Revenue Code, 26 U.S.C., Section 501
5 (c) (8), 501 (c) (10) or 501 (c) (19), when such facility is utilized
6 exclusively by its members and their families and for the conduct of
7 post or organization nonprofit operations except during an event or
8 activity which is open to the public;

9 ~~10.~~ 9. Any outdoor seating area of a restaurant; provided,
10 smoking shall not be allowed within fifteen (15) feet of any
11 exterior public doorway or any air intake of a restaurant; and

12 ~~11.~~ 10. Medical research or treatment centers, if smoking is
13 integral to the research or treatment.

14 H. Notwithstanding any other provision of the Smoking in Public
15 Places and Indoor Workplaces Act, until March 1, 2006, restaurants
16 may have designated smoking and nonsmoking areas or may be
17 designated as being a totally nonsmoking area. Beginning March 1,
18 2006, restaurants shall be totally nonsmoking or may provide
19 nonsmoking areas and designated smoking rooms. Food and beverage
20 may be served in such designated smoking rooms which shall be in a
21 location which is fully enclosed, directly exhausted to the outside,
22 under negative air pressure so smoke cannot escape when a door is
23 opened, and no air is recirculated to nonsmoking areas of the
24 building. No exhaust from such room shall be located within twenty-

1 five (25) feet of any entrance, exit or air intake. Such room shall
2 be subject to verification for compliance with the provisions of
3 this subsection by the State Department of Health.

4 SECTION 3. This act shall become effective November 1, 2008.

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