

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL 1674

6 By: Halligan

7 COMMITTEE SUBSTITUTE

8 [crimes and punishments - tobacco free campuses -
9 effective date]

10
11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

12 SECTION 1. AMENDATORY 21 O.S. 2001, Section 1247, as
13 last amended by Section 1, Chapter 70, O.S.L. 2007 (21 O.S. Supp.
14 2009, Section 1247), is amended to read as follows:

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

21 As used in this section, "indoor workplace" means any indoor
22 place of employment or employment-type service for or at the request
23 of another individual or individuals, or any public or private
24 entity, whether part-time or full-time and whether for compensation

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

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

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

23 D. All buildings, or portions thereof, owned by an educational
24 facility as is defined in the Smoking in Public Places and Indoor

1 Workplaces Act shall be designated as nonsmoking as provided for in
2 Section 1-1523 of Title 63 of the Oklahoma Statutes. All campuses,
3 buildings and grounds, or portions thereof, owned or operated by an
4 institution within The Oklahoma State System of Higher Education may
5 be designated as tobacco free, including smoking or smokeless
6 tobacco, by the institution upon adoption of a policy stating the
7 tobacco restrictions for the institution and an intent to enforce
8 the penalty for violations as set forth in subsection N of this
9 section.

10 E. A smoking room as provided for in subsections B and C of
11 this section:

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

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

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

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1 ~~E.~~ F. No smoking shall be allowed within twenty-five (25) feet
2 of the entrance or exit of any building specified in subsection B
3 ~~or~~, C or D of this section.

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

7 ~~G.~~ H. The restrictions provided in this section shall not apply
8 to the following:

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

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

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

18 4. Workplaces where only the owner or operator of the
19 workplace, or the immediate family of the owner or operator,
20 performs any work in the workplace, and the workplace has only
21 incidental public access. "Incidental public access" means that a
22 place of business has only an occasional person, who is not an
23 employee, present at the business to transact business or make a
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1 delivery. It does not include businesses that depend on walk-in
2 customers for any part of their business;

3 5. Workplaces occupied exclusively by one or more smokers, if
4 the workplace has only incidental public access;

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

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

9 8. Medical research or treatment centers, if smoking is
10 integral to the research or treatment;

11 9. A facility operated by a post or organization of past or
12 present members of the Armed Forces of the United States which is
13 exempt from taxation pursuant to ~~Sections~~ Section 501 (c) (8), 501
14 (c) (10) or 501 (c) (19) of the Internal Revenue Code, 26 U.S.C.,
15 ~~Sections~~ Section 501 (c) (8), 501 (c) (10) or 501 (c) (19), when such
16 facility is utilized exclusively by its members and their families
17 and for the conduct of post or organization nonprofit operations
18 except during an event or activity which is open to the public; and
19 10. Any outdoor seating area of a restaurant; provided, smoking
20 shall not be allowed within fifteen (15) feet of any exterior public
21 doorway or any air intake of a restaurant.

22 ~~H.~~ I. An employer not otherwise restricted from doing so may
23 elect to provide smoking rooms where no work is performed except for
24 cleaning and maintenance during the time the room is not in use for

1 smoking, provided each smoking room is fully enclosed and exhausted
2 directly to the outside in such a manner that no smoke can drift or
3 circulate into a nonsmoking area. No exhaust from a smoking room
4 shall be located within fifteen (15) feet of any entrance, exit or
5 air intake.

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

19 ~~F.~~ K. Notwithstanding any other provision of this section,
20 until March 1, 2006, restaurants may have designated smoking and
21 nonsmoking areas or may be designated as being a totally nonsmoking
22 area. Beginning March 1, 2006, restaurants shall be totally
23 nonsmoking or may provide nonsmoking areas and designated smoking
24 rooms. Food and beverage may be served in such designated smoking

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

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

14 ~~L.~~ M. Responsibility for posting signs or decals shall be as
15 follows:

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

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

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

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

3 SECTION 2. This act shall become effective November 1, 2010.
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