

ENROLLED HOUSE
BILL NO. 2748

By: Denney and Pittman of the
House

and

Halligan, Leftwich, Adelson
and Johnson (Constance) of
the Senate

An Act relating to crimes and punishments; amending 21 O.S. 2001, Section 1247, as last amended by Section 1, Chapter 70, O.S.L. 2007 (21 O.S. Supp. 2009, Section 1247), which relates to smoking in public areas and indoor workplaces; designating education facilities as nonsmoking as provided for in the Smoking in Public Places and Indoor Workplaces Act; authorizing institutions within The Oklahoma State System of Higher Education to be designated as tobacco free; providing for adoption of a policy by the institution; and providing an effective date.

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 1, Chapter 70, O.S.L. 2007 (21 O.S. Supp. 2009, 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 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.

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 if the rooms are properly ventilated so that smoke is not circulated to nonsmoking areas.

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.

D. All buildings, or portions thereof, owned by an educational facility as is defined in the Smoking in Public Places and Indoor Workplaces Act shall be designated as nonsmoking as provided for in Section 1-1523 of Title 63 of the Oklahoma Statutes. All campuses, buildings and grounds, or portions thereof, owned or operated by an institution within The Oklahoma State System of Higher Education may be designated as tobacco free, including smoking or smokeless tobacco, by the institution upon adoption of a policy stating the tobacco restrictions for the institution and an intent to enforce the penalty for violations as set forth in subsection N of this section.

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

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

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 be verified for compliance with the provisions of this 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.

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

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

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

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

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

3. Retail tobacco stores predominantly engaged in the sale of tobacco products and accessories and 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;

4. 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. "Incidental public access" means that a place of business has only an occasional person, who is not an employee, present at the business to transact business or make a delivery. It does not include businesses that depend on walk-in customers for any part of their business;

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

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

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

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

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

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

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

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

may choose a more restrictive smoking policy, including being totally smoke free.

~~J.~~ K. Notwithstanding any other provision of this section, until March 1, 2006, restaurants may have designated smoking and nonsmoking areas or may be designated as being a totally nonsmoking area. Beginning March 1, 2006, restaurants shall be totally nonsmoking or may provide nonsmoking areas and designated smoking rooms. Food and beverage may be served in such designated smoking rooms which 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 exhaust from such room shall be located within twenty-five (25) feet of any entrance, exit or air intake. Such room shall be subject to verification for compliance with the provisions of this subsection by the State Department of Health.

~~K.~~ L. 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.

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

1. In privately owned facilities, the owner or lessee, if a lessee is in possession of the facilities, shall be responsible;
2. In corporately owned facilities, the manager and/or supervisor of the facility involved shall be responsible; and
3. In publicly owned facilities, the manager and/or supervisor of the facility shall be responsible.

~~M.~~ N. 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. This act shall become effective November 1, 2010.

Passed the House of Representatives the 4th day of March, 2010.

Presiding Officer of the House of
Representatives

Passed the Senate the 7th day of April, 2010.

Presiding Officer of the Senate