

THE HOUSE OF REPRESENTATIVES
Monday, February 8, 2010

Committee Substitute for
House Bill No. 2748

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 2748 - By: DENNEY of the House and HALLIGAN 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:

1 SECTION 1. AMENDATORY 21 O.S. 2001, Section 1247, as last amended by
2 Section 1, Chapter 70, O.S.L. 2007 (21 O.S. Supp. 2009, Section 1247), is amended to
3 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 ~~I. J.~~ J. If smoking is to be permitted in any space exempted in ~~subsections F or~~
22 subsection G or H of this section or in a smoking room pursuant to subsection ~~H I~~ of this

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

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

20 ~~K. L.~~ The person who owns or operates a place where smoking or tobacco use is
21 prohibited by law shall be responsible for posting a sign or decal, at least four (4) inches

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

1 by two (2) inches in size, at each entrance to the building indicating that the place is
2 smoke-free or tobacco-free.

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

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

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

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

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

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

14 COMMITTEE REPORT BY: COMMITTEE ON HIGHER EDUCATION AND CAREER
15 TECH, dated 02-04-10 - DO PASS, As Amended and Coauthored.