

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 2748

By: Denney

4
5
6 AS INTRODUCED

7 An Act relating to crimes and punishments; amending
8 21 O.S. 2001, Section 1247, as last amended by
9 Section 1, Chapter 70, O.S.L. 2007 (21 O.S. Supp.
10 2009, Section 1247), which relates to smoking in
11 public areas and indoor workplaces; designating
12 education facilities as nonsmoking as provided for in
13 the Smoking in Public Places and Indoor Workplaces
14 Act; authorizing institutions within The Oklahoma
15 State System of Higher Education to be designated as
16 tobacco free; providing for adoption of a policy by
17 the board of regents for the institution; and
18 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 2009, 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. All buildings, or portions thereof, owned by an educational
4 facility as is defined in the Smoking in Public Places and Indoor
5 Workplaces Act shall be designated as nonsmoking as provided for in
6 Section 1-1523 of Title 63 of the Oklahoma Statutes. All campuses,
7 buildings and grounds, or portions thereof, owned or operated by an
8 institution within The Oklahoma State System of Higher Education may
9 be designed as tobacco free, including smoking or smokeless tobacco,
10 by the board of regents of the institution upon adoption of a policy
11 by the board stating the tobacco restrictions for the institution
12 and an intent to enforce the penalty for violations as set forth in
13 subsection N of this section.

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

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

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

23 3. Shall be verified for compliance with the provisions of this
24 subsection by the Department of Central Services for state

1 buildings, by a county entity designated by the board of county
2 commissioners for county buildings, or by a municipal entity
3 designated by the municipal governing body for municipal buildings.

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

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

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

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

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

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

21 4. Workplaces where only the owner or operator of the
22 workplace, or the immediate family of the owner or operator,
23 performs any work in the workplace, and the workplace has only
24 incidental public access. "Incidental public access" means that a

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

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

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

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

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

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

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

24

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

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

22 ~~J.~~ K. Notwithstanding any other provision of this section,
23 until March 1, 2006, restaurants may have designated smoking and
24 nonsmoking areas or may be designated as being a totally nonsmoking

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

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

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

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

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

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

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

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

6
7 52-2-8573 KB 12/29/09

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24