

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1674

By: Halligan

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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. 2009, 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 2009, Section 1-1523), which relate to smoking in
13 public places; permitting the Board of Regents of an
14 institution of higher education to prohibit the use
15 of tobacco products; and providing an effective date.

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

17 SECTION 1. AMENDATORY 21 O.S. 2001, Section 1247, as
18 last amended by Section 1, Chapter 70, O.S.L. 2007 (21 O.S. Supp.
19 2009, Section 1247), is amended to read as follows:

20 Section 1247. A. The possession of lighted tobacco in any form
21 is a public nuisance and dangerous to public health and is hereby
22 prohibited when such possession is in any:

23 1. Any indoor place used by or open to the public, ~~all~~;

24 2. All parts of a zoo to which the public may be admitted,
whether indoors or outdoors, ~~public~~;

3. Public transportation, ~~or any~~;

1 4. Any indoor workplace, except where specifically allowed by
2 law; or

3 5. Any campuses, buildings, grounds, or portions thereof under
4 the control of an institution of higher education upon approval by
5 the institution's Board of Regents; provided, however, the use of
6 smokeless tobacco shall also be prohibited when approved by the
7 institution's Board of Regents.

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

23 B. All buildings, or portions thereof, owned or operated by
24 this state shall be designated as nonsmoking; provided, however,

1 each building may have one designated smoking room. As used in this
2 paragraph, "buildings" shall not include up to twenty-five percent
3 (25%) of any hotel or motel rooms rented to guests if the rooms are
4 properly ventilated so that smoke is not circulated to nonsmoking
5 areas.

6 C. All buildings, or portions thereof, owned or operated by a
7 county or municipal government, at the discretion of the county or
8 municipal governing body, may be designated as entirely nonsmoking
9 or may be designated as nonsmoking with one designated smoking room.

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

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

7 G. The restrictions provided in this section shall not apply to
8 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 501 (c) (8), 501 (c) (10) or
14 501 (c) (19) of the Internal Revenue Code, 26 U.S.C., Sections 501
15 (c) (8), 501 (c) (10) or 501 (c) (19), when such facility is utilized
16 exclusively by its members and their families and for the conduct of
17 post or organization nonprofit operations except during an event or
18 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. An employer not otherwise restricted from doing so may elect
23 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 I. If smoking is to be permitted in any space exempted in
7 subsections F or G of this section or in a smoking room pursuant to
8 subsection H of this section, such smoking space must either occupy
9 the entire enclosed indoor space or, if it shares the enclosed space
10 with any nonsmoking areas, the smoking space shall be fully
11 enclosed, exhausted directly to the outside with no air from the
12 smoking space circulated to any nonsmoking area, and under negative
13 air pressure so that no smoke can drift or circulate into a
14 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 J. Notwithstanding any other provision of this section, until
20 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. 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. 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. 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. 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 2009, 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:

9 1. In a public place,~~in;~~

10 2. In any part of a zoo to which the public may be admitted,
11 whether indoors or outdoors,~~in;~~

12 3. In an indoor workplace,~~in;~~

13 4. In any vehicle providing public transportation,~~at;~~

14 5. At a meeting of a public body,~~in;~~

15 6. In a child care facility licensed pursuant to the Oklahoma
16 Child Care Facilities Licensing Act;

17 7. In a nursing facility licensed pursuant to the Nursing Home
18 Care Act,~~or in a child care facility licensed pursuant to the~~
19 ~~Oklahoma Child Care Facilities Licensing Act.~~ A; provided, however,
20 a nursing facility licensed pursuant to the Nursing Home Care Act
21 may designate smoking rooms for residents and their guests. Such
22 rooms shall be fully enclosed, directly exhausted to the outside,
23 and shall be under negative air pressure so that no smoke can escape
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1 when a door is opened and no air is recirculated to nonsmoking areas
2 of the building; or

3 8. On or in any campuses, buildings, grounds, or portions
4 thereof under the control of an institution of higher education upon
5 approval by the institution's Board of Regents; provided, however,
6 the use of smokeless tobacco shall also be prohibited when approved
7 by the institution's Board of Regents.

8 B. 1. Except as otherwise provided in paragraph 2 of this
9 subsection, an educational facility which offers an early childhood
10 education program or in which children in grades kindergarten
11 through twelve are educated shall prohibit smoking, the use of
12 snuff, chewing tobacco or any other form of tobacco product in the
13 buildings and on the grounds of the facility by all persons
14 including, but not limited to, full-time, part-time, and contract
15 employees, during the hours of 7:00 a.m. to 4:00 p.m., during the
16 school session, or when class or any program established for
17 students is in session.

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

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

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

8 D. A private residence is not a "public place" within the
9 meaning of the Smoking in Public Places and Indoor Workplaces Act
10 except that areas in a private residence that are used as a licensed
11 child care facility during hours of operation are "public places"
12 within the meaning of the Smoking in Public Places and Indoor
13 Workplaces Act.

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

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

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

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

12 1. Stand-alone bars, stand-alone taverns or cigar bars;

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

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

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

22 5. Workplaces where only the owner or operator of the
23 workplace, or the immediate family of the owner or operator,
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1 performs any work in the workplace, and the workplace has only
2 incidental public access;

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

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

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

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 501 (c) (8), 501 (c) (10) or
16 501 (c) (19) of the Internal Revenue Code, 26 U.S.C., Section 501
17 (c) (8), 501 (c) (10) or 501 (c) (19), when such facility is utilized
18 exclusively by its members and their families and for the conduct of
19 post or organization nonprofit operations except during an event or
20 activity which is open to the public;

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; and

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

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

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

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