

STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL 1685

By: Denney, Shelton and Sherrer
of the House

and

Halligan of the Senate

COMMITTEE SUBSTITUTE

An Act relating to school health and safety; creating the 24/7 Tobacco-free Schools Act; providing definitions; prohibiting the use of tobacco products on or in educational facilities; prohibiting the use of tobacco products in school vehicles or at school events or activities; allowing for more restrictive policies; amending 21 O.S. 2011, Section 1247, as last amended by Section 1, Chapter 167, O.S.L. 2014 (21 O.S. Supp. 2014, Section 1247), which relates to prohibition on smoking in certain public places; adding prohibition for certain educational facilities; modifying certain penalty; amending 63 O.S. 2011, Sections 1-1522 and 1-1523, as last amended by Section 2, Chapter 167, O.S.L. 2014 (63 O.S. Supp. 2014, Section 1-1523), which relate to the Smoking in Public Places and Indoor Workplaces Act; modifying certain definition; changing certain prohibitions; adding prohibition for certain educational facilities; providing for codification; providing an effective date; and declaring an emergency.

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

1 SECTION 1. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1210.211 of Title 70, unless
3 there is created a duplication in numbering, reads as follows:

4 Sections 2 and 3 of this act shall be known and may be cited as
5 the "24/7 Tobacco-free Schools Act".

6 SECTION 2. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 1210.212 of Title 70, unless
8 there is created a duplication in numbering, reads as follows:

9 As used in the 24/7 Tobacco-free Schools Act:

10 1. "Chewing tobacco" means any Cavendish, twist, plug, scrap,
11 and any other kinds and forms of tobacco suitable for chewing;

12 2. "Educational facility" shall mean any property, building,
13 permanent structure, facility, auditorium, stadium, arena or
14 recreational facility owned, leased or under the control of a public
15 school district or private school located in the state. For
16 purposes of this act, a public school district shall not include a
17 technology center school district;

18 3. "School vehicle" means any transportation equipment or
19 auxiliary transportation equipment as defined in Section 9-104 of
20 Title 70 of the Oklahoma Statutes;

21 4. "Smoking tobacco" shall mean any granulated, plug cut, crimp
22 cut, ready rubbed, and any other kinds and forms of tobacco suitable
23 for smoking in a pipe or cigarette; and
24

1 5. "Tobacco product" shall mean any bidis, cigars, cheroots,
2 stogies, smoking tobacco and chewing tobacco, however prepared.
3 Tobacco products shall include any other articles or products made
4 of tobacco or any substitute thereof.

5 SECTION 3. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 1210.213 of Title 70, unless
7 there is created a duplication in numbering, reads as follows:

8 A. The use of a tobacco product shall be prohibited in or on an
9 educational facility that offers an early childhood education
10 program or in which children in grades kindergarten through twelve
11 are educated. The use of a tobacco product shall also be prohibited
12 in school vehicles, and at any school-sponsored or school-sanctioned
13 event or activity.

14 B. Nothing in this section shall be construed to prohibit a
15 public school district or private school from having more
16 restrictive policies regarding tobacco products in or on an
17 educational facility, in school vehicles and at any school-sponsored
18 or school-sanctioned event or activity.

19 SECTION 4. AMENDATORY 21 O.S. 2011, Section 1247, as
20 last amended by Section 1, Chapter 167, O.S.L. 2014 (21 O.S. Supp.
21 2014, Section 1247), is amended to read as follows:

22 Section 1247. A. The possession of lighted tobacco in any form
23 is a public nuisance and dangerous to public health and is hereby
24 prohibited when such possession is in any indoor place used by or

1 open to the public, all parts of a zoo to which the public may be
2 admitted, whether indoors or outdoors, public transportation, or any
3 indoor workplace, except where specifically allowed by law.

4 Commercial airport operators may prohibit the use of lighted tobacco
5 in any area that is open to or used by the public whether located
6 indoors or outdoors, provided that the outdoor area is within one
7 hundred seventy-five (175) feet from an entrance.

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 and other properties, or portions thereof,
24 owned or operated by this state shall be designated as nonsmoking.

1 The provisions of this subsection shall not apply to veterans
2 centers operated by this state pursuant to the provisions of Section
3 221 et seq. of Title 72 of the Oklahoma Statutes, which shall be
4 designated nonsmoking effective January 1, 2015, at which time
5 veterans centers may establish outdoor designated smoking areas for
6 resident veterans only. Smoking shall only be allowed in designated
7 outdoor smoking areas until January 1, 2018. Each veterans center
8 described in this subsection shall be entirely nonsmoking no later
9 than January 1, 2018.

10 C. All buildings and other properties, or portions thereof,
11 owned or operated by a county or municipal government, at the
12 discretion of the county or municipal governing body, may be
13 designated as entirely nonsmoking.

14 D. All ~~buildings, or portions thereof, owned by an~~ educational
15 ~~facility~~ facilities or portions thereof as ~~is~~ defined in the Smoking
16 in Public Places and Indoor Workplaces Act and all educational
17 facilities as defined in the 24/7 Tobacco-free Schools Act shall be
18 designated as nonsmoking as provided for in Section 1-1523 of Title
19 63 of the Oklahoma Statutes. All campuses, buildings and grounds,
20 or portions thereof, owned or operated by an institution within The
21 Oklahoma State System of Higher Education may be designated as
22 tobacco free, including smoking or smokeless tobacco, by the
23 institution upon adoption of a policy stating the tobacco
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1 restrictions for the institution and an intent to enforce the
2 penalty for violations as set forth in subsection M of this section.

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

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

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

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

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

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

20 4. Workplaces where only the owner or operator of the
21 workplace, or the immediate family of the owner or operator,
22 performs any work in the workplace, and the workplace has only
23 incidental public access. "Incidental public access" means that a
24 place of business has only an occasional person, who is not an

1 employee, present at the business to transact business or make a
2 delivery. It does not include businesses that depend on walk-in
3 customers for any part of their business;

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

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

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

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

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

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

23 H. An employer not otherwise restricted from doing so may elect
24 to provide smoking rooms where no work is performed except for

1 cleaning and maintenance during the time the room is not in use for
2 smoking, provided each smoking room is fully enclosed and exhausted
3 directly to the outside in such a manner that no smoke can drift or
4 circulate into a nonsmoking area. No exhaust from a smoking room
5 shall be located within fifteen (15) feet of any entrance, exit or
6 air intake.

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

20 J. Notwithstanding any other provision of this section, until
21 March 1, 2006, restaurants may have designated smoking and
22 nonsmoking areas or may be designated as being a totally nonsmoking
23 area. Beginning March 1, 2006, restaurants shall be totally
24 nonsmoking or may provide nonsmoking areas and designated smoking

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

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

15 L. Responsibility for posting signs or decals shall be as
16 follows:

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

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

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

23 M. Any person who knowingly violates the provisions of this
24 section ~~is guilty of a misdemeanor, and upon conviction thereof,~~

1 shall be punished by a citation and fine of not ~~less than Ten~~
2 ~~Dollars (\$10.00) nor~~ more than One Hundred Dollars (\$100.00).

3 SECTION 5. AMENDATORY 63 O.S. 2011, Section 1-1522, is
4 amended to read as follows:

5 Section 1-1522. As used in this act:

6 1. "Educational facility" means a building owned, leased or
7 under the control of a technology center school district or a public
8 or private ~~school system~~, college or university;

9 2. "Health facility" means an entity which provides health
10 services, including, but not limited to, hospitals, nursing homes,
11 long-term care facilities, kidney disease treatment centers, health
12 maintenance organizations and ambulatory treatment centers;

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

1 open or closed windows, stairways, or the like. The provisions of
2 this section shall apply to such indoor workplace at any given time,
3 whether or not work is being performed;

4 4. "Meeting" means a meeting as defined in the Oklahoma Open
5 Meeting Act;

6 5. "Public body" means a public body as defined in the Oklahoma
7 Open Meeting Act;

8 6. "Public place" means any enclosed indoor area where
9 individuals other than employees are invited or permitted;

10 7. "Restaurant" means any eating establishment regardless of
11 seating capacity;

12 8. "Smoking" means the carrying by a person of a lighted cigar,
13 cigarette, pipe or other lighted smoking device; and

14 9. "Stand-alone bar", "stand-alone tavern", and "cigar bar"
15 mean an establishment that derives more than sixty percent (60%) of
16 its gross receipts, subject to verification by competent authority,
17 from the sale of alcoholic beverages and low-point beer and no
18 person under twenty-one (21) years of age is admitted, except for
19 members of a musical band employed or hired as provided in paragraph
20 2 of subsection B of Section 537 of Title 37 of the Oklahoma
21 Statutes and that is not located within, and does not share any
22 common entryway or common indoor area with, any other enclosed
23 indoor workplace, including a restaurant.
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1 SECTION 6. AMENDATORY 63 O.S. 2011, Section 1-1523, as
2 last amended by Section 2, Chapter 167, O.S.L. 2014 (63 O.S. Supp.
3 2014, Section 1-1523), is amended to read as follows:

4 Section 1-1523. A. Except as specifically provided in the
5 Smoking in Public Places and Indoor Workplaces Act, no person shall
6 smoke in a public place, in any part of a zoo to which the public
7 may be admitted, whether indoors or outdoors, in an indoor
8 workplace, in any vehicle providing public transportation, at a
9 meeting of a public body, in a nursing facility licensed pursuant to
10 the Nursing Home Care Act, or in a child care facility licensed
11 pursuant to the Oklahoma Child Care Facilities Licensing Act. A
12 nursing facility licensed pursuant to the Nursing Home Care Act may
13 designate smoking rooms for residents and their guests. Such rooms
14 shall be fully enclosed, directly exhausted to the outside, and
15 shall be under negative air pressure so that no smoke can escape
16 when a door is opened and no air is recirculated to nonsmoking areas
17 of the building. Commercial airport operators may prohibit the use
18 of lighted tobacco in any area that is open to or used by the public
19 whether located indoors or outdoors, provided that the outdoor area
20 is within one hundred seventy-five (175) feet from an entrance.

21 B. 1. Except as otherwise provided in paragraph 2 of this
22 subsection, ~~an educational facility~~ a technology center school
23 district which offers an early childhood education program or in
24 which children in grades kindergarten through twelve are educated

1 shall prohibit smoking, the use of snuff, chewing tobacco or any
2 other form of tobacco product in the educational facility buildings
3 and on the grounds of the facility by all persons including, but
4 not limited to, full-time, part-time, and contract employees,
5 during the hours of 7:00 a.m. to 4:00 p.m., during the school
6 session, or when class or any program established for students is
7 in session.

8 2. ~~Career and~~ A technology centers center school district may
9 designate smoking areas outside of buildings, away from general
10 traffic areas and completely out of sight of children under eighteen
11 (18) years of age, for use by adults attending training courses,
12 sessions, meetings or seminars.

13 3. ~~An educational facility~~ A technology center school district
14 or college or university may designate smoking areas outside the
15 educational facility buildings for the use of adults during certain
16 activities or functions, including, but not limited to, athletic
17 contests.

18 4. Smoking shall be prohibited in an educational facility as
19 defined in the 24/7 Tobacco-free Schools Act and as provided for in
20 Section 3 of this act.

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

1 D. A private residence is not a "public place" within the
2 meaning of the Smoking in Public Places and Indoor Workplaces Act
3 except that areas in a private residence that are used as a licensed
4 child care facility during hours of operation are "public places"
5 within the meaning of the Smoking in Public Places and Indoor
6 Workplaces Act.

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

9 F. Veterans centers operated by this state pursuant to the
10 provisions of Section 221 et seq. of Title 72 of the Oklahoma
11 Statutes shall be designated nonsmoking effective January 1, 2015,
12 at which time veterans centers may establish outdoor designated
13 smoking areas for resident veterans only. Smoking shall only be
14 allowed in designated outdoor smoking areas until January 1, 2018.
15 Each veterans center described in this subsection shall be entirely
16 nonsmoking no later than January 1, 2018.

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

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

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

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

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

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

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

23 5. Workplaces where only the owner or operator of the
24 workplace, or the immediate family of the owner or operator,

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
24

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

3 I. 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 7. This act shall become effective July 1, 2015.

18 SECTION 8. It being immediately necessary for the preservation
19 of the public peace, health and safety, an emergency is hereby
20 declared to exist, by reason whereof this act shall take effect and
21 be in full force from and after its passage and approval.

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