

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 SENATE JOINT
4 RESOLUTION 24

By: Griffin

5
6 AS INTRODUCED

7 A Joint Resolution relating to smoking in public
8 places; ordering a legislative referendum pursuant to
9 the Oklahoma Constitution; amending 21 O.S. 2011,
10 Section 1247, as last amended by Section 1, Chapter
11 167, O.S.L. 2014 (21 O.S. Supp. 2014, Section 1247),
12 which relates to smoking in public areas; amending 63
13 O.S. 2011, Section 1-1522, which relates to
14 definitions; amending 63 O.S. 2011, Section 1-1523,
15 as last amended by Section 2, Chapter 167, O.S.L.
2014 (63 O.S. Supp. 2014, Section 1-1523), which
relates to smoking in public places; broadening
certain definition; prohibiting smoking in public
places; removing certain exemptions; providing ballot
title; and directing filing.

16 BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE
17 1ST SESSION OF THE 55TH OKLAHOMA LEGISLATURE:

18 SECTION 1. Pursuant to Section 3 of Article V of the Oklahoma
19 Constitution, there is hereby ordered the following legislative
20 referendum which shall be filed with the Secretary of State and
21 addressed to the Governor of the state, who shall submit the same to
22 the people for their approval or rejection at the next General
23 Election.
24

1 SECTION 2. AMENDATORY 21 O.S. 2011, Section 1247, as
2 last amended by Section 1, Chapter 167, O.S.L. 2014 (21 O.S. Supp.
3 2014, Section 1247), is amended to read as follows:

4 Section 1247. A. The possession of lighted tobacco in any form
5 is a public nuisance and dangerous to public health and is hereby
6 prohibited when such possession is in any indoor or outdoor place
7 used by or open to the public, all parts of a zoo to which the
8 public may be admitted, whether indoors or outdoors, public
9 transportation, or any indoor workplace, except where specifically
10 allowed by law. Commercial airport operators may prohibit the use
11 of lighted tobacco in any area that is open to or used by the public
12 whether located indoors or outdoors, provided that the outdoor area
13 is within one hundred seventy-five (175) feet from an entrance.

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

1 is predominantly or totally enclosed by walls or windows, regardless
2 of doors, doorways, open or closed windows, stairways, or the like.
3 The provisions of this section shall apply to such indoor workplace
4 at any given time, whether or not work is being performed.

5 B. All buildings and other properties, or portions thereof,
6 owned or operated by this state shall be designated as nonsmoking.
7 The provisions of this subsection shall not apply to veterans
8 centers operated by this state pursuant to the provisions of Section
9 221 et seq. of Title 72 of the Oklahoma Statutes, which shall be
10 designated nonsmoking effective January 1, 2015, at which time
11 veterans centers may establish outdoor designated smoking areas for
12 resident veterans only. Smoking shall only be allowed in designated
13 outdoor smoking areas until January 1, 2018. Each veterans center
14 described in this subsection shall be entirely nonsmoking no later
15 than January 1, 2018.

16 C. All buildings and other properties, or portions thereof,
17 owned or operated by a county or municipal government, at the
18 discretion of the county or municipal governing body, may be
19 designated as entirely nonsmoking.

20 D. All buildings, or portions thereof, owned by an educational
21 facility as is defined in the Smoking in Public Places and Indoor
22 Workplaces Act shall be designated as nonsmoking as provided for in
23 Section 1-1523 of Title 63 of the Oklahoma Statutes. All campuses,
24 buildings and grounds, or portions thereof, owned or operated by an

1 institution within The Oklahoma State System of Higher Education may
2 be designated as tobacco free, including smoking or smokeless
3 tobacco, by the institution upon adoption of a policy stating the
4 tobacco restrictions for the institution and an intent to enforce
5 the penalty for violations as set forth in subsection ~~M~~ H of this
6 section.

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

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

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

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

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

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

1 ~~4.~~ 2. Workplaces where only the owner or operator of the
2 workplace, or the immediate family of the owner or operator,
3 performs any work in the workplace, and the workplace has only
4 incidental public access. "Incidental public access" means that a
5 place of business has only an occasional person, who is not an
6 employee, present at the business to transact business or make a
7 delivery. It does not include businesses that depend on walk-in
8 customers for any part of their business;

9 ~~5.~~ 3. Workplaces occupied exclusively by one or more smokers,
10 if the workplace has only incidental public access;

11 ~~6.~~ 4. Private offices occupied exclusively by one or more
12 smokers;

13 ~~7.~~ 5. Workplaces within private residences, except that
14 smoking shall not be allowed inside any private residence that is
15 used as a licensed child care facility during hours of operation;
16 and

17 ~~8.~~ 6. Medical research or treatment centers, if smoking is
18 integral to the research or treatment;

19 ~~9. A facility operated by a post or organization of past or~~
20 ~~present members of the Armed Forces of the United States which is~~
21 ~~exempt from taxation pursuant to Section 501(c)(8), 501(c)(10) or~~
22 ~~501(c)(19) of the Internal Revenue Code, 26 U.S.C., Section~~
23 ~~501(c)(8), 501(c)(10) or 501(c)(19), when such facility is utilized~~
24 ~~exclusively by its members and their families and for the conduct of~~

1 ~~post or organization nonprofit operations except during an event or~~
2 ~~activity which is open to the public; and~~

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

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

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

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

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

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

22 ~~L. H. Responsibility for posting signs or decals shall be as~~
23 ~~follows:~~
24

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

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

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

7 ~~M.~~ I. Any person who knowingly violates the provisions of this
8 section is guilty of a misdemeanor, and upon conviction thereof,
9 shall be punished by a fine of not less than Ten Dollars (\$10.00)
10 nor more than One Hundred Dollars (\$100.00).

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

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

14 1. "Educational facility" means a building owned, leased or
15 under the control of a public or private school system, college or
16 university;

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

21 3. "Indoor workplace" means any indoor place of employment or
22 employment-type service for or at the request of another individual
23 or individuals, or any public or private entity, whether part-time
24 or full-time and whether for compensation or not. Such services

1 shall include, without limitation, any service performed by an
2 owner, employee, independent contractor, agent, partner, proprietor,
3 manager, officer, director, apprentice, trainee, associate, servant
4 or volunteer. An indoor workplace includes work areas, employee
5 lounges, restrooms, conference rooms, classrooms, employee
6 cafeterias, hallways, any other spaces used or visited by employees,
7 and all space between a floor and ceiling that is predominantly or
8 totally enclosed by walls or windows, regardless of doors, doorways,
9 open or closed windows, stairways, or the like. The provisions of
10 this section shall apply to such indoor workplace at any given time,
11 whether or not work is being performed;

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

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

16 6. "Public place" means any enclosed indoor or exposed outdoor
17 area where individuals other than employees are invited or
18 permitted, but shall exclude places with incidental public access.
19 For the purposes of this paragraph, "incidental public access" means
20 that a place of business has only an occasional person, who is not
21 an employee, present at the business to transact business or make a
22 delivery. It does not include businesses that depend on walk-in
23 customers for any part of their business;
24

1 7. "Restaurant" means any eating establishment regardless of
2 seating capacity; and

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

5 ~~9. "Stand-alone bar", "stand-alone tavern", and "cigar bar"~~
6 ~~mean an establishment that derives more than sixty percent (60%) of~~
7 ~~its gross receipts, subject to verification by competent authority,~~
8 ~~from the sale of alcoholic beverages and low-point beer and no~~
9 ~~person under twenty-one (21) years of age is admitted, except for~~
10 ~~members of a musical band employed or hired as provided in paragraph~~
11 ~~2 of subsection B of Section 537 of Title 37 of the Oklahoma~~
12 ~~Statutes and that is not located within, and does not share any~~
13 ~~common entryway or common indoor area with, any other enclosed~~
14 ~~indoor workplace, including a restaurant.~~

15 SECTION 4. AMENDATORY 63 O.S. 2011, Section 1-1523, as
16 last amended by Section 2, Chapter 167, O.S.L. 2014 (63 O.S. Supp.
17 2014, Section 1-1523), is amended to read as follows:

18 Section 1-1523. A. Except as specifically provided in the
19 Smoking in Public Places and Indoor Workplaces Act, no person shall
20 smoke in a public place, in any part of a zoo to which the public
21 may be admitted, whether indoors or outdoors, in an indoor
22 workplace, in any vehicle providing public transportation, at a
23 meeting of a public body, in a nursing facility licensed pursuant to
24 the Nursing Home Care Act, or in a child care facility licensed

1 pursuant to the Oklahoma Child Care Facilities Licensing Act. A
2 nursing facility licensed pursuant to the Nursing Home Care Act may
3 designate smoking rooms for residents and their guests. Such rooms
4 shall be fully enclosed, directly exhausted to the outside, and
5 shall be under negative air pressure so that no smoke can escape
6 when a door is opened and no air is recirculated to nonsmoking areas
7 of the building. Commercial airport operators may prohibit the use
8 of lighted tobacco in any area that is open to or used by the public
9 whether located indoors or outdoors, provided that the outdoor area
10 is within one hundred seventy-five (175) feet from an entrance.

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

21 2. Career and technology centers may designate smoking areas
22 outside of buildings, away from general traffic areas and completely
23 out of sight of children under eighteen (18) years of age, for use
24

1 by adults attending training courses, sessions, meetings or
2 seminars.

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

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

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

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

18 F. Veterans centers operated by this state pursuant to the
19 provisions of Section 221 et seq. of Title 72 of the Oklahoma
20 Statutes shall be designated nonsmoking effective January 1, 2015,
21 at which time veterans centers may establish outdoor designated
22 smoking areas for resident veterans only. Smoking shall only be
23 allowed in designated outdoor smoking areas until January 1, 2018.
24

1 Each veterans center described in this subsection shall be entirely
2 nonsmoking no later than January 1, 2018.

3 G. An employer not otherwise restricted from doing so may elect
4 to provide smoking rooms where no work is performed except for
5 cleaning and maintenance during the time the room is not in use for
6 smoking, provided each smoking room is fully enclosed and exhausted
7 directly to the outside, in such manner that no smoke can drift or
8 circulate into a nonsmoking area. No exhaust from a smoking room
9 shall be located within fifteen (15) feet of any entrance, exit or
10 air intake. If smoking is to be permitted in any space exempted in
11 subsection G of this section or in a smoking room pursuant to
12 subsection H of this section, such smoking space must either occupy
13 the entire enclosed indoor space or, if it shares the enclosed space
14 with any nonsmoking areas, the smoking space shall be fully
15 enclosed, exhausted directly to the outside with no air from the
16 smoking space circulated to any nonsmoking area, and under negative
17 air pressure so that no smoke can drift or circulate into a
18 nonsmoking area when a door to an adjacent nonsmoking area is
19 opened. Air from a smoking room shall not be exhausted within
20 fifteen (15) feet of any entrance, exit or air intake.

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

- 23 1. ~~Stand-alone bars, stand-alone taverns or cigar bars,~~
24

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

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

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

10 ~~5.~~ 2. Workplaces where only the owner or operator of the
11 workplace, or the immediate family of the owner or operator,
12 performs any work in the workplace, and the workplace has only
13 incidental public access;

14 ~~6.~~ 3. Workplaces occupied exclusively by one or more smokers,
15 if the workplace has only incidental public access. "Incidental
16 public access" means that a place of business has only an occasional
17 person, who is not an employee, present at the business to transact
18 business or make a delivery. It does not include businesses that
19 depend on walk-in customers for any part of their business;

20 ~~7.~~ 4. Private offices occupied exclusively by one or more
21 smokers;

22 ~~8.~~ 5. Workplaces within private residences, except that
23 smoking shall not be allowed inside any private residence that is
24

1 used as a licensed child care facility during hours of operation;
2 and

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

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

14 ~~11. 6.~~ Medical research or treatment centers, if smoking is
15 integral to the research or treatment.

16 ~~I. Notwithstanding any other provision of the Smoking in Public~~
17 ~~Places and Indoor Workplaces Act, until March 1, 2006, restaurants~~
18 ~~may have designated smoking and nonsmoking areas or may be~~
19 ~~designated as being a totally nonsmoking area. Beginning March 1,~~
20 ~~2006, restaurants shall be totally nonsmoking or may provide~~
21 ~~nonsmoking areas and designated smoking rooms. Food and beverage~~
22 ~~may be served in such designated smoking rooms which shall be in a~~
23 ~~location which is fully enclosed, directly exhausted to the outside,~~
24 ~~under negative air pressure so smoke cannot escape when a door is~~

1 ~~opened, and no air is recirculated to nonsmoking areas of the~~
2 ~~building. No exhaust from such room shall be located within twenty-~~
3 ~~five (25) feet of any entrance, exit or air intake. Such room shall~~
4 ~~be subject to verification for compliance with the provisions of~~
5 ~~this subsection by the State Department of Health.~~

6 SECTION 5. This resolution shall become effective upon approval
7 by the people.

8 SECTION 6. The Ballot Title for the proposed act shall be in
9 the following form:

10 BALLOT TITLE

11 Legislative Referendum No. _____ State Question No. _____

12 THE GIST OF THE PROPOSITION IS AS FOLLOWS:

13 This measure prohibits smoking in public places. This measure
14 repeals existing exemptions on certain facilities that are still
15 permitted to allow smoking in public places, but does allow
16 smoking to occur in private residences and on private property
17 with incidental public access. This measure would require that
18 all public places be smoke-free and that restaurants, bars, and
19 other establishments no longer permit smoking on their premises.

20 SHALL THE PROPOSAL BE APPROVED?

21 FOR THE PROPOSAL - YES _____

22 AGAINST THE PROPOSAL - NO _____

23 SECTION 7. The President Pro Tempore of the Senate shall,
24 immediately after the passage of this order for legislative

1 referendum, prepare and file in accordance with Section 3 of Article
2 V of the Oklahoma Constitution, one copy of this order for
3 legislative referendum, including the Ballot Title set forth in
4 SECTION 6, with the Secretary of State and one copy with the
5 Attorney General.

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