

1 ENGROSSED SENATE  
2 BILL NO. 501

By: Simpson of the Senate

3 and

4 Ownbey of the House

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6  
7 An Act relating to public health; amending 21 O.S.  
8 2011, Section 1247, as amended by Section 90, Chapter  
9 304, O.S.L. 2012 (21 O.S. Supp. 2012, Section 1247),  
10 which relates to smoking in certain public areas;  
11 designating all buildings and other properties owned  
12 by public entities as nonsmoking; deleting  
13 authorization for smoking rooms; amending 63 O.S.  
14 2011, Section 1-1527, which relates to the Smoking in  
15 Public Places and Indoor Workplaces Act; permitting  
16 county and municipal governing bodies to designate  
17 certain properties as nonsmoking; and providing an  
18 effective date.

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

20 SECTION 1. AMENDATORY 21 O.S. 2011, Section 1247, as  
21 amended by Section 90, Chapter 304, O.S.L. 2012 (21 O.S. Supp. 2012,  
22 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 and other properties, or portions thereof,  
17 owned or operated by this state shall be designated as nonsmoking+  
18 ~~provided, however, each building may have one designated smoking~~  
19 ~~room. As used in this paragraph, "buildings" shall not include up~~  
20 ~~to twenty-five percent (25%) of any hotel or motel rooms rented to~~  
21 ~~guests if the rooms are properly ventilated so that smoke is not~~  
22 ~~circulated to nonsmoking areas.~~

23 C. All buildings and other properties, or portions thereof,  
24 owned or operated by a county or municipal government, at the

1 discretion of the county or municipal governing body, may be  
2 designated as entirely nonsmoking ~~or may be designated as nonsmoking~~  
3 ~~with one designated smoking room.~~

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

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

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

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

1       ~~3. Shall be verified for compliance with the provisions of this~~  
2 ~~subsection by the Office of Management and Enterprise Services for~~  
3 ~~state buildings, by a county entity designated by the board of~~  
4 ~~county commissioners for county buildings, or by a municipal entity~~  
5 ~~designated by the municipal governing body for municipal buildings.~~

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

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

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

14       1. 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       2. Up to twenty-five percent (25%) of the guest rooms at a  
18 hotel or other lodging establishment;

19       3. 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       4. 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. "Incidental public access" means that a  
3 place of business has only an occasional person, who is not an  
4 employee, present at the business to transact business or make a  
5 delivery. It does not include businesses that depend on walk-in  
6 customers for any part of their business;

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

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

10 7. 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 8. Medical research or treatment centers, if smoking is  
14 integral to the research or treatment;

15 9. A facility operated by a post or organization of past or  
16 present members of the Armed Forces of the United States which is  
17 exempt from taxation pursuant to Section 501(c)(8), 501(c)(10) or  
18 501(c)(19) of the Internal Revenue Code, 26 U.S.C., Section  
19 501(c)(8), 501(c)(10) or 501(c)(19), when such facility is utilized  
20 exclusively by its members and their families and for the conduct of  
21 post or organization nonprofit operations except during an event or  
22 activity which is open to the public; and  
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1        10. Any outdoor seating area of a restaurant; provided, smoking  
2 shall not be allowed within fifteen (15) feet of any exterior public  
3 doorway or any air intake of a restaurant.

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

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

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

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

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

22       1. In privately owned facilities, the owner or lessee, if a  
23 lessee is in possession of the facilities, shall be responsible;  
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1        2. In corporately owned facilities, the manager and/or  
2 supervisor of the facility involved shall be responsible; and

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

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

9        SECTION 2.        AMENDATORY        63 O.S. 2011, Section 1-1527, is  
10 amended to read as follows:

11        Section 1-1527. The State Legislature by adopting this act  
12 intends to preempt any other regulation promulgated to control  
13 smoking in public places and to standardize laws that governmental  
14 subdivisions may adopt to control smoking. Cities and towns may  
15 enact and enforce laws prohibiting and penalizing conduct under  
16 provisions of this act, but the provisions of such laws shall be the  
17 same as provided in this act and the enforcement provisions under  
18 such laws shall not be more stringent than those of this act;  
19 provided, however, that cities and towns shall be authorized to  
20 enact laws restricting smoking on properties owned or operated by  
21 the respective governing bodies. Nothing in this section shall be  
22 construed as to prevent county or municipal governments, at the  
23 discretion of the respective governing bodies, from prohibiting  
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1 smoking in or on property owned or operated by the respective  
2 governing bodies.

3 SECTION 3. This act shall become effective November 1, 2013.

4 Passed the Senate the 13th day of March, 2013.

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\_\_\_\_\_  
Presiding Officer of the Senate

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8 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
9 2013.

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Presiding Officer of the House  
of Representatives

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