

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 54th Legislature (2014)

4 ENGROSSED SENATE
5 BILL NO. 1777

By: Simpson of the Senate

and

Ownbey of the House

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9 An Act relating to public health; amending 21 O.S.
10 2011, Section 1247, as last amended by Section 1,
11 Chapter 187, O.S.L. 2013 (21 O.S. Supp. 2013, Section
12 1247) and 63 O.S. 2011, Section 1-1523, as amended by
13 Section 2, Chapter 30, O.S.L. 2012 (63 O.S. Supp.
14 2013, Section 1-1523), which relate to smoking in
15 certain public areas; requiring certain veterans
16 centers to be nonsmoking by certain date; and
17 providing an effective date.

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

19 SECTION 1. AMENDATORY 21 O.S. 2011, Section 1247, as
20 last amended by Section 1, Chapter 187, O.S.L. 2013 (21 O.S. Supp.
21 2013, 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
25 open to the public, all parts of a zoo to which the public may be
26 admitted, whether indoors or outdoors, public transportation, or any

1 indoor workplace, except where specifically allowed by law.
2 Commercial airport operators may prohibit the use of lighted tobacco
3 in any area that is open to or used by the public whether located
4 indoors or outdoors, provided that the outdoor area is within one
5 hundred seventy-five (175) feet from an entrance.

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

21 B. All buildings and other properties, or portions thereof,
22 owned or operated by this state shall be designated as nonsmoking.
23 The provisions of this subsection shall not apply to veterans
24 centers operated by this state pursuant to the provisions of Section

1 221 et seq. of Title 72 of the Oklahoma Statutes, which shall be
2 designated nonsmoking effective January 1, 2015, at which time
3 veterans centers may establish outdoor designated smoking areas for
4 resident veterans only. Smoking shall only be allowed in designated
5 outdoor smoking areas until January 1, 2018. Each veterans center
6 described in this subsection shall be entirely nonsmoking no later
7 than January 1, 2018.

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

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

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, C or
3 D 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 Section 501(c)(8), 501(c)(10) or
14 501(c)(19) of the Internal Revenue Code, 26 U.S.C., Section
15 501(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 subsection 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 the provisions of this
23 section is guilty of a misdemeanor, and upon conviction thereof,
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1 shall be punished by a fine of not less than Ten Dollars (\$10.00)
2 nor more than One Hundred Dollars (\$100.00).

3 SECTION 2. AMENDATORY 63 O.S. 2011, Section 1-1523, as
4 amended by Section 2, Chapter 30, O.S.L. 2012 (63 O.S. Supp. 2013,
5 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 a public place, in any part of a zoo to which the public
9 may be admitted, whether indoors or outdoors, in an indoor
10 workplace, in any vehicle providing public transportation, at a
11 meeting of a public body, in a nursing facility licensed pursuant to
12 the Nursing Home Care Act, or in a child care facility licensed
13 pursuant to the Oklahoma Child Care Facilities Licensing Act. A
14 nursing facility licensed pursuant to the Nursing Home Care Act may
15 designate smoking rooms for residents and their guests. Such rooms
16 shall be fully enclosed, directly exhausted to the outside, and
17 shall be under negative air pressure so that no smoke can escape
18 when a door is opened and no air is recirculated to nonsmoking areas
19 of the building. Commercial airport operators may prohibit the use
20 of lighted tobacco in any area that is open to or used by the public
21 whether located indoors or outdoors, provided that the outdoor area
22 is within one hundred seventy-five (175) feet from an entrance.

23 B. 1. Except as otherwise provided in paragraph 2 of this
24 subsection, an educational facility which offers an early childhood

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

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

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

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

21 D. A private residence is not a "public place" within the
22 meaning of the Smoking in Public Places and Indoor Workplaces Act
23 except that areas in a private residence that are used as a licensed
24 child care facility during hours of operation are "public places"

1 within the meaning of the Smoking in Public Places and Indoor
2 Workplaces Act.

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

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

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

1 enclosed, exhausted directly to the outside with no air from the
2 smoking space circulated to any nonsmoking area, and under negative
3 air pressure so that no smoke can drift or circulate into a
4 nonsmoking area when a door to an adjacent nonsmoking area is
5 opened. Air from a smoking room shall not be exhausted within
6 fifteen (15) feet of any entrance, exit or air intake.

7 ~~G.~~ H. The Smoking in Public Places and Indoor Workplaces Act
8 shall not prohibit smoking in:

- 9 1. Stand-alone bars, stand-alone taverns or cigar bars;
- 10 2. The room or rooms where licensed charitable bingo games are
11 being operated, but only during the hours of operation of such
12 games;
- 13 3. Up to twenty-five percent (25%) of the guest rooms at a
14 hotel or other lodging establishment;
- 15 4. Retail tobacco stores predominantly engaged in the sale of
16 tobacco products and accessories and in which the sale of other
17 products is merely incidental and in which no food or beverage is
18 sold or served for consumption on the premises;
- 19 5. Workplaces where only the owner or operator of the
20 workplace, or the immediate family of the owner or operator,
21 performs any work in the workplace, and the workplace has only
22 incidental public access;
- 23 6. Workplaces occupied exclusively by one or more smokers, if
24 the workplace has only incidental public access. "Incidental public

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

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

6 8. 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 9. A facility operated by a post or organization of past or
10 present members of the Armed Forces of the United States which is
11 exempt from taxation pursuant to Sections 501 (c) (8), 501 (c) (10) or
12 501 (c) (19) of the Internal Revenue Code, 26 U.S.C., Section 501
13 (c) (8), 501 (c) (10) or 501 (c) (19), when such facility is utilized
14 exclusively by its members and their families and for the conduct of
15 post or organization nonprofit operations except during an event or
16 activity which is open to the public;

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

20 11. Medical research or treatment centers, if smoking is
21 integral to the research or treatment.

22 ~~H.~~ I. Notwithstanding any other provision of the Smoking in
23 Public Places and Indoor Workplaces Act, until March 1, 2006,
24 restaurants may have designated smoking and nonsmoking areas or may

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

12 SECTION 3. This act shall become effective November 1, 2014.

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14 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC HEALTH, dated 04/08/2014 -
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