

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 54th Legislature (2013)

4 ENGROSSED SENATE
5 BILL NO. 501

 By: Simpson and Johnson (Rob)
 of the Senate

6 and

7 Ownbey and Pittman of the
8 House

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

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

24 SECTION 1. AMENDATORY 21 O.S. 2011, Section 1247, as
25 amended by Section 90, Chapter 304, O.S.L. 2012 (21 O.S. Supp. 2012,
26 Section 1247), is amended to read as follows:

1 Section 1247. A. The possession of lighted tobacco in any form
2 is a public nuisance and dangerous to public health and is hereby
3 prohibited when such possession is in any indoor place used by or
4 open to the public, all parts of a zoo to which the public may be
5 admitted, whether indoors or outdoors, public transportation, or any
6 indoor workplace, except where specifically allowed by law.

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

22 B. All buildings and other properties, or portions thereof,
23 owned or operated by this state shall be designated as nonsmoking+
24 ~~provided, however, each building may have one designated smoking~~

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

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

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

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

23 1. ~~Shall not be used for the conduct of public business;~~
24

1 ~~2. 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 smoking exhaust shall be~~
5 ~~located within twenty-five (25) feet of any entrance, exit or air~~
6 ~~intake; and~~

7 ~~3. Shall be verified for compliance with the provisions of this~~
8 ~~subsection by the Office of Management and Enterprise Services for~~
9 ~~state buildings, by a county entity designated by the board of~~
10 ~~county commissioners for county buildings, or by a municipal entity~~
11 ~~designated by the municipal governing body for municipal buildings.~~

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

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

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

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

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

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

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

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

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

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

19 8. Medical research or treatment centers, if smoking is
20 integral to the research or treatment;

21 9. A facility operated by a post or organization of past or
22 present members of the Armed Forces of the United States which is
23 exempt from taxation pursuant to Section 501(c)(8), 501(c)(10) or
24 501(c)(19) of the Internal Revenue Code, 26 U.S.C., Section

1 501(c)(8), 501(c)(10) or 501(c)(19), when such facility is utilized
2 exclusively by its members and their families and for the conduct of
3 post or organization nonprofit operations except during an event or
4 activity which is open to the public; and

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

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

16 ~~F.~~ I. If smoking is to be permitted in any space exempted in
17 subsection ~~G~~ F or ~~H~~ G of this section or in a smoking room pursuant
18 to subsection ~~F~~ H of this section, such smoking space must either
19 occupy the entire enclosed indoor space or, if it shares the
20 enclosed space with any nonsmoking areas, the smoking space shall be
21 fully enclosed, exhausted directly to the outside with no air from
22 the smoking space circulated to any nonsmoking area, and under
23 negative air pressure so that no smoke can drift or circulate into a
24 nonsmoking area when a door to an adjacent nonsmoking area is

1 opened. Air from a smoking room shall not be exhausted within
2 fifteen (15) feet of any entrance, exit or air intake. Any employer
3 may choose a more restrictive smoking policy, including being
4 totally smoke free.

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

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

24

1 ~~M.~~ L. Responsibility for posting signs or decals shall be as
2 follows:

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

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

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

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

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

15 Section 1-1527. The State Legislature by adopting this act
16 intends to preempt any other regulation promulgated to control
17 smoking in public places and to standardize laws that governmental
18 subdivisions may adopt to control smoking. Cities and towns may
19 enact and enforce laws prohibiting and penalizing conduct under
20 provisions of this act, but the provisions of such laws shall be the
21 same as provided in this act and the enforcement provisions under
22 such laws shall not be more stringent than those of this act;
23 provided, however, that cities and towns shall be authorized to
24 enact laws restricting smoking on properties owned or operated by

1 the respective governing bodies. Nothing in this section shall be
2 construed as to prevent county or municipal governments, at the
3 discretion of the respective governing bodies, from prohibiting
4 smoking in or on property owned or operated by the respective
5 governing bodies.

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

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8 COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT AND FINANCIAL
9 SERVICES, dated 04/04/2013 - DO PASS, As Coauthored.
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