

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 SENATE BILL 730

By: Simpson

6 AS INTRODUCED

7 An Act relating to public health; amending 21 O.S.
8 2011, Section 1247, as last amended by Section 4,
Chapter 259, O.S.L. 2015 (21 O.S. Supp. 2016, Section
9 1247) and 63 O.S. 2011, Section 1-1523, as last
10 amended by Section 6, Chapter 259, O.S.L. 2015 (63
O.S. Supp. 2016, Section 1-1523), which relate to
11 smoking in public places; removing certain provisions
relating to veterans centers; updating statutory
reference; and providing an effective date.

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

15 SECTION 1. AMENDATORY 21 O.S. 2011, Section 1247, as
16 last amended by Section 4, Chapter 259, O.S.L. 2015 (21 O.S. Supp.
17 2016, Section 1247), is amended to read as follows:

18 Section 1247. A. The possession of lighted tobacco in any form
19 is a public nuisance and dangerous to public health and is hereby
20 prohibited when such possession is in any indoor place used by or
21 open to the public, all parts of a zoo to which the public may be
22 admitted, whether indoors or outdoors, public transportation, or any
23 indoor workplace, except where specifically allowed by law.
24 Commercial airport operators may prohibit the use of lighted tobacco

1 in any area that is open to or used by the public whether located
2 indoors or outdoors, provided that the outdoor area is within one
3 hundred seventy-five (175) feet from an entrance.

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

19 B. All buildings and other properties, or portions thereof,
20 owned or operated by this state shall be designated as nonsmoking.
21 The provisions of this subsection shall not apply to veterans
22 centers operated by this state pursuant to the provisions of Section
23 221 et seq. of Title 72 of the Oklahoma Statutes, which shall be
24 designated nonsmoking effective January 1, 2015, at which time

1 veterans centers may establish outdoor designated smoking areas for
2 resident veterans only. Smoking shall only be allowed in designated
3 outdoor smoking areas ~~until January 1, 2018. Each veterans center~~
4 ~~described in this subsection shall be entirely nonsmoking no later~~
5 ~~than January 1, 2018.~~

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

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

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

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

4 G. The restrictions provided in this section shall not apply to
5 the following:

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

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

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

15 4. Workplaces where only the owner or operator of the
16 workplace, or the immediate family of the owner or operator,
17 performs any work in the workplace, and the workplace has only
18 incidental public access. "Incidental public access" means that a
19 place of business has only an occasional person, who is not an
20 employee, present at the business to transact business or make a
21 delivery. It does not include businesses that depend on walk-in
22 customers for any part of their business;

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

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

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

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

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

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

18 H. An employer not otherwise restricted from doing so may elect
19 to provide smoking rooms where no work is performed except for
20 cleaning and maintenance during the time the room is not in use for
21 smoking, provided each smoking room is fully enclosed and exhausted
22 directly to the outside in such a manner that no smoke can drift or
23 circulate into a nonsmoking area. No exhaust from a smoking room
24

1 shall be located within fifteen (15) feet of any entrance, exit or
2 air intake.

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

16 J. Notwithstanding any other provision of this section, until
17 March 1, 2006, restaurants may have designated smoking and
18 nonsmoking areas or may be designated as being a totally nonsmoking
19 area. Beginning March 1, 2006, restaurants shall be totally
20 nonsmoking or may provide nonsmoking areas and designated smoking
21 rooms. Food and beverage may be served in such designated smoking
22 rooms which shall be in a location which is fully enclosed, directly
23 exhausted to the outside, under negative air pressure so smoke
24 cannot escape when a door is opened, and no air is recirculated to

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

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

11 L. Responsibility for posting signs or decals shall be as
12 follows:

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

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

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

19 M. Any person who knowingly violates the provisions of this
20 section shall be punished by a citation and fine of not more than
21 One Hundred Dollars (\$100.00).

22 SECTION 2. AMENDATORY 63 O.S. 2011, Section 1-1523, as
23 last amended by Section 6, Chapter 259, O.S.L. 2015 (63 O.S. Supp.
24 2016, Section 1-1523), is amended to read as follows:

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

18 B. 1. Except as otherwise provided in paragraph 2 of this
19 subsection, a technology center school district which offers an
20 early childhood education program or in which children in grades
21 kindergarten through twelve are educated shall prohibit smoking, the
22 use of snuff, chewing tobacco or any other form of tobacco product
23 in the educational facility buildings and on the grounds of the
24 facility by all persons including, but not limited to, full-time,

1 part-time, and contract employees, during the hours of 7:00 a.m. to
2 4:00 p.m., during the school session, or when class or any program
3 established for students is in session.

4 2. A technology center school district may designate smoking
5 areas outside of buildings, away from general traffic areas and
6 completely out of sight of children under eighteen (18) years of
7 age, for use by adults attending training courses, sessions,
8 meetings or seminars.

9 3. A technology center school district or college or university
10 may designate smoking areas outside the educational facility
11 buildings for the use of adults during certain activities or
12 functions, including, but not limited to, athletic contests.

13 4. Smoking shall be prohibited in an educational facility as
14 defined in the 24/7 Tobacco-free Schools Act and as provided for in
15 Section 3 of this act 1210.213 of Title 70 of the Oklahoma Statutes.

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

20 D. A private residence is not a "public place" within the
21 meaning of the Smoking in Public Places and Indoor Workplaces Act
22 except that areas in a private residence that are used as a licensed
23 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 H of this section or in a smoking room pursuant to
22 subsection I 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 H. The Smoking in Public Places and Indoor Workplaces Act shall
8 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

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

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

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

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

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

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

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

1 designated as being a totally nonsmoking area. Beginning March 1,
2 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, 2017.

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