

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 HOUSE BILL 2969

By: Frix

6 AS INTRODUCED

7 An Act relating to smoking; amending 21 O.S. 2011,  
8 Section 1247, as last amended by Section 1, Chapter  
110, O.S.L. 2017 (21 O.S. Supp. 2017, Section 1247),  
9 which relates to smoking in public places;  
10 prohibiting smoking within fifty feet of entrance or  
exit of state building; and providing an effective  
date.

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

14 SECTION 1. AMENDATORY 21 O.S. 2011, Section 1247, as  
15 last amended by Section 1, Chapter 110, O.S.L. 2017 (21 O.S. Supp.  
16 2017, Section 1247), is amended to read as follows:

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

1 indoors or outdoors, provided that the outdoor area is within one  
2 hundred seventy-five (175) feet from an entrance.

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

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

1 resident veterans only. Smoking shall only be allowed in designated  
2 outdoor smoking areas.

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

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

19 E. No smoking shall be allowed within fifty (50) feet of the  
20 entrance or exit of any building specified in subsection B of this  
21 section. No smoking shall be allowed within twenty-five (25) feet  
22 of the entrance or exit of any building specified in subsection ~~B~~, C  
23 or 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  
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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. This act shall become effective November 1, 2018.

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24 56-2-8392 AM 01/08/18