

1 ENGROSSED HOUSE  
2 BILL NO. 3384

By: Wright of the House

3 and

4 Stanislawski of the Senate

5  
6 [ public health and safety - creating the Oklahoma  
7 Workplace Clean Air Act - effective date ]  
8  
9

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

11 SECTION 1. NEW LAW A new section of law to be codified  
12 in the Oklahoma Statutes as Section 1-1533 of Title 63, unless there  
13 is created a duplication in numbering, reads as follows:

14 Sections 1 through 15 of this act shall be known and may be  
15 cited as the "Oklahoma Workplace Clean Air Act".

16 SECTION 2. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 1-1534 of Title 63, unless there  
18 is created a duplication in numbering, reads as follows:

19 The State Legislature by adopting the Oklahoma Workplace Clean  
20 Air Act intends to preempt any other regulation promulgated to  
21 control smoking in public places and to standardize laws that  
22 governmental subdivisions may adopt to control smoking. Cities and  
23 towns may enact and enforce laws prohibiting and penalizing conduct  
24 under provisions of this act, but the provisions of such laws shall

1 be the same as provided in this act and the enforcement provisions  
2 under such laws shall not be more stringent than those of this act;  
3 provided, however, that cities and towns shall be authorized to  
4 enact laws restricting smoking on properties owned or operated by  
5 the respective governing bodies. Nothing in this section shall be  
6 construed as to prevent county or municipal governments, at the  
7 discretion of the respective governing bodies, from prohibiting  
8 smoking in or on property owned or operated by the respective  
9 governing bodies.

10 SECTION 3. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 1-1535 of Title 63, unless there  
12 is created a duplication in numbering, reads as follows:

13 As used in the Oklahoma Workplace Clean Air Act:

14 1. "Adult day care" means a nonresidential facility that  
15 supports the health, nutritional, social and daily living needs of  
16 adults who require assistance or supervision during the day;

17 2. "Business" means a sole proprietorship, partnership, joint  
18 venture, corporation or other business entity, either for-profit or  
19 not-for-profit, including retail establishments where goods or  
20 services are sold, professional corporations and other entities  
21 where legal, medical, dental, engineering, architectural or other  
22 professional services are delivered, and private clubs;

23 3. "Cigar bar" means an establishment, licensed by the Oklahoma  
24 Tax Commission for the retail sale of tobacco products, that engages

1 in the retail sale of tobacco products for consumption by customers  
2 on the premises. Cigar bars derive at least twenty-five percent  
3 (25%) of its annual gross receipts, verified by competent authority,  
4 from the sale and consumption of tobacco products and accessories or  
5 displaying more than one hundred different facing stock keeping  
6 units (SKUs) of premium, long-filler, all tobacco hand-rolled cigars  
7 at all times on the premises of the licensed cigar bar, and no  
8 person under twenty-one (21) years of age is admitted;

9 4. "Educational facilities" means any property, building,  
10 permanent structure, facility, auditorium, stadium, arena or  
11 recreational facility owned, leased or under the control of a public  
12 school district or private school located in the state. For  
13 purposes of this act, a public school district shall not include a  
14 technology center school district;

15 5. "Electronic smoking device" means any product containing or  
16 delivering nicotine or any other substance intended for human  
17 consumption that can be used by a person in any manner for the  
18 purpose of inhaling vapor or aerosol from the product. The term  
19 includes any such device, whether manufactured, distributed,  
20 marketed or sold as an e-cigarette, e-cigar, e-pipe, e-hookah or  
21 vape pen, or under any other product name or descriptor;

22 6. "Employee" means a person who performs services for, whether  
23 full time or part time, an employer in consideration for direct or  
24 indirect monetary wages or profit or a person who volunteers his or

1 her services for any private or public entity or individual whether  
2 for compensation or not;

3 7. "Employer" means a person, business, partnership,  
4 association, corporation, including a municipal corporation, trust,  
5 nonprofit entity or any other entity recognized by law that employs  
6 the services of one or more individual persons;

7 8. "Enclosed area" means all space between a floor and a  
8 ceiling that is bounded on at least two sides by walls, doorways or  
9 windows, whether open or closed. A wall includes any retractable  
10 divider, garage door or other physical barrier, whether temporary or  
11 permanent and whether or not containing openings of any kind;

12 9. "Health care facility" means any entity which provides  
13 health services, including, but not limited to, hospitals,  
14 rehabilitation hospitals or other clinics, including weight control  
15 clinics, nursing homes, long-term care facilities, homes for the  
16 aging or chronically ill, laboratories and offices of surgeons,  
17 chiropractors, physical therapists, physicians, psychiatrists,  
18 dentists and all specialists within these professions. This  
19 definition shall include all waiting rooms, hallways, private rooms,  
20 semiprivate rooms and wards within health care facilities;

21 10. "Hookah" means a water pipe and any associated products and  
22 devices which are used to produce fumes, smoke and/or vapor from the  
23 heating or burning of material, including, but not limited to,  
24 tobacco, shisha or other plant matter;

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

15        12. "Place of employment" means an area under the control of a  
16 public or private employer, including, but not limited to, work  
17 areas, private offices, employee lounges, restrooms, conference  
18 rooms, meeting rooms, classrooms, employee cafeterias, hallways,  
19 construction sites, temporary offices and vehicles. A private  
20 residence is not a place of employment unless it is used as a child  
21 care, adult day care or health care facility;

22        13. "Playground" means any park or recreational area designed  
23 in part to be used by children that has play or sports equipment  
24 installed or that has been designated or landscaped for play or

1 sports activities, or any similar facility located on public or  
2 private school grounds or on state grounds or grounds of any  
3 political subdivision of the state;

4 14. "Private club" means an organization, whether incorporated  
5 or not, which is the owner, lessee or occupant of a building or  
6 portion thereof used exclusively for club purposes at all times,  
7 which is operated solely for a recreational, fraternal, social,  
8 patriotic, political, benevolent or athletic purpose, but not for  
9 pecuniary gain, and which only sells alcoholic beverages incidental  
10 to its operation. The affairs and management of the organization  
11 are conducted by a board of directors, executive committee or  
12 similar body chosen by the members at an annual meeting. The  
13 organization has established bylaws and/or a constitution to govern  
14 its activities. The organization has been granted an exemption from  
15 the payment of federal income tax as a club under 26 U.S.C., Section  
16 501;

17 15. "Public event" means an event which is open to and may be  
18 attended by the general public, including, but not limited to, such  
19 events as concerts, fairs, farmers markets, festivals, parades,  
20 performances and other exhibitions, regardless of any fee or age  
21 requirement;

22 16. "Public place" means an area to which the public is invited  
23 or in which the public is permitted, including, but not limited to,  
24 banks, bars, educational facilities, health care facilities, hotels

1 and motels, laundromats, parking structures, public transportation  
2 vehicles and facilities, reception areas, restaurants, retail food  
3 production and marketing establishments, retail service  
4 establishments, retail stores, shopping malls, sports arenas,  
5 theaters and waiting rooms. A private residence is not a public  
6 place unless it is used as a child care, adult day care or health  
7 care facility;

8 17. "Recreational area" means any indoor or outdoor, public or  
9 private area open to the public for recreational purposes, whether  
10 or not any fee for admission is charged;

11 18. "Restaurant" means any eating establishment regardless of  
12 seating capacity, including, but not limited to, coffee shops,  
13 cafeterias and sandwich stands, as well as kitchens and catering  
14 facilities in which food is prepared on the premises for serving  
15 elsewhere. The term "restaurant" shall include a bar area within  
16 the restaurant;

17 19. "Retail tobacco store" means a retail establishment that  
18 derives more than eighty percent (80%) of its gross revenue from the  
19 sale of loose tobacco, cigars, cigarettes, pipes or other smoking  
20 devices for burning or heating tobacco and related smoking  
21 accessories and in which the sale of other products is merely  
22 incidental;

23 20. "Service line" means an indoor or outdoor line in which one  
24 or more persons are waiting for or receiving service of any kind,

1 whether or not the service involves the exchange of money,  
2 including, but not limited to, ATM lines, concert lines, food vendor  
3 lines, movie ticket lines and sporting event lines;

4 21. "Shopping mall" means an enclosed or unenclosed public  
5 walkway or hall area that serves to connect retail or professional  
6 establishments;

7 22. "Smoking" means inhaling, exhaling, burning or carrying any  
8 lighted or heated cigar, cigarette, pipe, hookah or any other  
9 lighted or heated tobacco or plant product intended for inhalation,  
10 including marijuana, whether natural or synthetic, in any manner or  
11 in any form. Smoking includes the use of an electronic smoking  
12 device which creates an aerosol or vapor, in any manner or in any  
13 form, or the use of any oral smoking device for the purpose of  
14 circumventing the prohibition of smoking in this act;

15 23. "Sports arena" means a place where people assemble to  
16 engage in physical exercise, participate in athletic competition or  
17 witness sports or other events, including sports pavilions,  
18 stadiums, gymnasiums, health spas, boxing arenas, swimming pools,  
19 roller and ice rinks and bowling alleys;

20 24. "Bar" and "tavern" means an establishment that derives more  
21 than sixty percent (60%) of its gross receipts, subject to  
22 verification by competent authority, from the sale of alcoholic  
23 beverages and low-point beer and no person under twenty-one (21)  
24 years of age is admitted, except for members of a musical band

1 employed or hired as provided in paragraph 2 of Section 6-102 of  
2 Title 37A of the Oklahoma Statutes, and that is not located within,  
3 and does not share any common entryway or common indoor area with,  
4 any other enclosed indoor workplace, including a restaurant;

5 25. "Vapor product" means noncombustible products that may or  
6 may not contain nicotine that employ a mechanical heating element,  
7 battery, electronic circuit or other mechanism, regardless of shape  
8 or size, that can be used to produce a vapor in a solution or other  
9 form. Vapor products shall include any vapor cartridge or other  
10 container, with or without nicotine, or other form that is intended  
11 to be used with an electronic cigarette, electronic cigar,  
12 electronic cigarillo, electronic pipe or similar product or device  
13 and any vapor cartridge or other container of a solution that may or  
14 may not contain nicotine and that is intended to be used with or in  
15 an electronic cigarette, electronic cigar, electronic cigarillo or  
16 electronic device. Vapor products do not include any products  
17 regulated by the United States Food and Drug Administration under  
18 Chapter V of the Food, Drug, and Cosmetic Act; and

19 26. "Vapor shop" means a retail establishment that derives more  
20 than eighty percent (80%) of its gross revenue from the retail sale  
21 of vapor-generating electronic devices and components, parts and  
22 accessories for such products, in which the sale of other products  
23 or services is merely incidental.

1       SECTION 4.       NEW LAW       A new section of law to be codified  
2 in the Oklahoma Statutes as Section 1-1536 of Title 63, unless there  
3 is created a duplication in numbering, reads as follows:

4       All enclosed areas, including buildings and vehicles owned,  
5 leased, operated or contracted for use by the state or any of its  
6 subdivisions, as well as all outdoor property adjacent to such  
7 buildings and under the control of the state, shall be subject to  
8 the provisions of the Oklahoma Workplace Clean Air Act.

9       SECTION 5.       NEW LAW       A new section of law to be codified  
10 in the Oklahoma Statutes as Section 1-1537 of Title 63, unless there  
11 is created a duplication in numbering, reads as follows:

12       A.   Smoking shall be prohibited in all enclosed public places  
13 and indoor recreational areas within the State of Oklahoma,  
14 including, but not limited to, the following places:

- 15       1.   Aquariums, galleries, libraries and museums;
- 16       2.   Areas inside businesses and nonprofit entities patronized by  
17 the public, including, but not limited to, banks, laundromats,  
18 professional offices and retail service establishments;
- 19       3.   Bars;
- 20       4.   Bingo facilities;
- 21       5.   Child care and adult day care facilities;
- 22       6.   Convention facilities;
- 23       7.   Educational facilities;
- 24       8.   Elevators;

- 1        9. Health care facilities;
- 2        10. Hotels and motels;
- 3        11. Lobbies, hallways and other common areas in apartment
- 4 buildings, condominiums, trailer parks, retirement facilities,
- 5 nursing homes and other multiple-unit residential facilities;
- 6        12. Parking structures;
- 7        13. Polling places;
- 8        14. Public transportation vehicles, including buses and
- 9 taxicabs under the authority of the state, and public transportation
- 10 facilities, including bus, train and airport facilities;
- 11        15. Restaurants;
- 12        16. Restrooms, lobbies, reception areas, hallways and other
- 13 common-use areas;
- 14        17. Retail stores;
- 15        18. Rooms, chambers, places of meeting or public assembly,
- 16 including school buildings under the control of an agency, board,
- 17 commission, committee or council of the state or a political
- 18 subdivision of the state;
- 19        19. Service lines;
- 20        20. Shopping malls;
- 21        21. Sports arenas, including enclosed places in outdoor arenas;
- 22 and
- 23
- 24

1        22. Theaters and other facilities primarily used for exhibiting  
2 motion pictures, stage dramas, lectures, musical recitals or other  
3 similar performances.

4        B. The Oklahoma Workplace Clean Air Act shall not prohibit  
5 smoking in medical research or treatment centers, if smoking is  
6 integral to research or treatment.

7        C. The Oklahoma Workplace Clean Air Act shall not apply to the  
8 following:

9            1. Cigar bars;

10           2. Retail tobacco stores;

11           3. Vapor shops;

12           4. Restaurants in existence as of November 1, 2020, that have  
13 designated tobacco smoking rooms which shall be in a location which  
14 is fully enclosed, directly exhausted to the outside, under negative  
15 air pressure so tobacco smoke cannot escape when a door is opened,  
16 and no air is recirculated to nonsmoking areas of the building. No  
17 exhaust from such room shall be located within fifteen (15) feet of  
18 any entrance, exit or air intake. Such room shall be subject to  
19 verification for compliance with the provisions of this paragraph by  
20 the State Department of Health; and

21           5. Workplaces, including private residential businesses where  
22 only the owner or operator of the workplace performs any work in the  
23 workplace, and the workplace has only incidental public access.

24 "Incidental public access" means that a place of business has only

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

5 SECTION 6. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 1-1538 of Title 63, unless there  
7 is created a duplication in numbering, reads as follows:

8 A. Smoking shall be prohibited in all enclosed areas of places  
9 of employment without exception. This includes, without limitation,  
10 work areas, auditoriums, classrooms, conference and meeting rooms,  
11 private offices, elevators, hallways, medical facilities,  
12 cafeterias, employee lounges, stairs, restrooms, vehicles and all  
13 other enclosed facilities, and any other spaces used or visited by  
14 employees.

15 B. This prohibition on smoking shall be communicated to all  
16 existing employees by January 1, 2021, and to all prospective  
17 employees upon their application for employment.

18 SECTION 7. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 1-1539 of Title 63, unless there  
20 is created a duplication in numbering, reads as follows:

21 Smoking shall be prohibited in the following indoor and outdoor  
22 places:

- 23 1. All private clubs;
- 24 2. All private and semiprivate rooms in nursing homes;

1        3. All hotel and motel guest rooms;

2        4. Within fifteen (15) feet of outside entrances, operable  
3 windows and ventilation systems of enclosed areas where smoking is  
4 prohibited, so as to prevent tobacco smoke from entering those  
5 areas;

6        5. On all outdoor property that is adjacent to buildings owned,  
7 leased or operated by the state and that is under the control of the  
8 state;

9        6. In outdoor shopping malls, including parking structures;

10       7. In all outdoor arenas, stadiums and amphitheaters. Smoking  
11 shall also be prohibited in, and within fifteen (15) feet of,  
12 bleachers and grandstands for use by spectators at sporting and  
13 other public events;

14       8. In, and within fifteen (15) feet of, all outdoor  
15 playgrounds;

16       9. In, and within fifteen (15) feet of, all outdoor public  
17 events;

18       10. In, and within fifteen (15) feet of, all outdoor public  
19 transportation stations, platforms and shelters under the authority  
20 of the state or any of its subdivisions; and

21       11. In outdoor common areas of apartment buildings,  
22 condominiums, trailer parks, retirement facilities, nursing homes  
23 and other multiple-unit residential facilities, except in designated  
24 smoking areas, not to exceed twenty-five percent (25%) of the total

1 outdoor common area, which must be located at least fifteen (15)  
2 feet outside entrances, operable windows and ventilation systems of  
3 enclosed areas where smoking is prohibited. Outdoor common areas do  
4 not include private patios or balconies.

5 SECTION 8. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 1-1540 of Title 63, unless there  
7 is created a duplication in numbering, reads as follows:

8 Notwithstanding any other provision of the Oklahoma Workplace  
9 Clean Air Act to the contrary, smoking shall not be prohibited in  
10 private residences, unless used as a child care, adult day care or  
11 health care facility.

12 SECTION 9. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 1-1541 of Title 63, unless there  
14 is created a duplication in numbering, reads as follows:

15 Notwithstanding any other provision of the Oklahoma Workplace  
16 Clean Air Act, an owner, operator, manager or other person in  
17 control of an establishment, facility or outdoor area may declare  
18 that entire establishment, facility or outdoor area as a nonsmoking  
19 place. Smoking shall be prohibited in any place in which a sign  
20 conforming to the requirements of Section 10 of this act is posted.

21 SECTION 10. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 1-1542 of Title 63, unless there  
23 is created a duplication in numbering, reads as follows:

24

1       The owner, operator, manager or other person in control of a  
2 place of employment, public place, private club or residential  
3 facility where smoking is prohibited by the Oklahoma Workplace Clean  
4 Air Act shall:

5       1. Clearly and conspicuously post "No Smoking" signs or signs  
6 stating that the place is a smoke-free environment;

7       2. Clearly and conspicuously post signs at every entrance  
8 stating that smoking is prohibited or that the place is a smoke-free  
9 environment or, in the case of outdoor places, clearly and  
10 conspicuously post such signs in appropriate locations;

11       3. Clearly and conspicuously post on every vehicle that  
12 constitutes a place of employment under this act at least one sign,  
13 visible from the exterior of the vehicle, stating that smoking is  
14 prohibited or that the vehicle is a smoke-free environment; and

15       4. Remove all ashtrays from any area where smoking is  
16 prohibited by the Oklahoma Workplace Clean Air Act, except for  
17 ashtrays displayed for sale and not for use on the premises.

18       SECTION 11.       NEW LAW       A new section of law to be codified  
19 in the Oklahoma Statutes as Section 1-1543 of Title 63, unless there  
20 is created a duplication in numbering, reads as follows:

21       A. No person or employer shall discharge, refuse to hire, or in  
22 any manner retaliate against an employee, applicant for employment,  
23 customer or resident of a multiple-unit residential facility because  
24 that employee, applicant, customer or resident exercises any rights

1 afforded by the Oklahoma Workplace Clean Air Act or reports or  
2 attempts to prosecute a violation of this act. In addition to any  
3 administrative fines imposed pursuant to Section 13 of this act, a  
4 conviction for a violation of this subsection shall be a  
5 misdemeanor, punishable by a fine not to exceed One Thousand Dollars  
6 (\$1,000.00) for each violation.

7 B. An employee who works in a setting where an employer allows  
8 smoking does not waive or otherwise surrender any legal rights the  
9 employee may have against the employer or any other party.

10 SECTION 12. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 1-1544 of Title 63, unless there  
12 is created a duplication in numbering, reads as follows:

13 The State Department of Health shall promulgate rules necessary  
14 to implement the provisions of the Oklahoma Workplace Clean Air Act.

15 SECTION 13. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 1-1545 of Title 63, unless there  
17 is created a duplication in numbering, reads as follows:

18 A. In addition to any other penalties authorized by law, the  
19 Commissioner of Health or the Department of Human Services,  
20 whichever is the appropriate entity, shall impose administrative  
21 fines against nursing facilities, employees of nursing facilities,  
22 or both nursing facilities and employees of nursing facilities,  
23 restaurants, food establishments and child care facilities for  
24 violations of the Oklahoma Workplace Clean Air Act.

1       B. Any citizen who desires to register a complaint under the  
2 Oklahoma Workplace Clean Air Act may do so with the State Department  
3 of Health.

4       C. Local health departments, fire departments and their  
5 designees shall, while an establishment is undergoing otherwise  
6 mandated inspections, inspect for compliance with the Oklahoma  
7 Workplace Clean Air Act.

8       D. An owner, manager, operator or employee of an area regulated  
9 by the Oklahoma Workplace Clean Air Act may direct a person who is  
10 smoking in violation of this act to extinguish or turn off the  
11 product being smoked. If the person does not stop smoking, the  
12 owner, manager, operator or employee shall refuse service and may  
13 immediately ask the person to leave the premises. If the person in  
14 violation refuses to leave the premises, the owner, manager,  
15 operator or employee may contact a law enforcement agency.

16       E. Nothing in this section shall prevent an employee or private  
17 citizen from bringing legal action to enforce the Oklahoma Workplace  
18 Clean Air Act.

19       F. Nothing in this section shall prevent the State Department  
20 of Health from implementing a complaint system for the reporting of  
21 violations of the Oklahoma Workplace Clean Air Act.

22       SECTION 14.       NEW LAW       A new section of law to be codified  
23 in the Oklahoma Statutes as Section 1-1546 of Title 63, unless there  
24 is created a duplication in numbering, reads as follows:

1       A. Any person who smokes in an area where smoking is prohibited  
2 by the provisions of the Oklahoma Workplace Clean Air Act shall be  
3 punished by a citation and fine of not more than One Hundred Dollars  
4 (\$100.00).

5       B. Except as otherwise provided in Section 11 of this act, a  
6 person who owns, manages, operates or otherwise controls a public  
7 place or place of employment and who fails to comply with the  
8 provisions of the Oklahoma Workplace Clean Air Act shall be punished  
9 by a citation and fine or an administrative fine in the following  
10 amounts:

11       1. A fine not to exceed One Hundred Dollars (\$100.00) for a  
12 first violation;

13       2. A fine not to exceed Two Hundred Dollars (\$200.00) for a  
14 second violation within one (1) year; and

15       3. A fine not to exceed Five Hundred Dollars (\$500.00) for each  
16 additional violation within one (1) year.

17       C. In addition to the fines established by this section, a  
18 violation of the Oklahoma Workplace Clean Air Act by a person who  
19 owns, manages, operates or otherwise controls a public place or  
20 place of employment may result in the suspension or revocation of  
21 any permit or license issued to the person for the premises on which  
22 the violation occurred.

23       D. Violation of the Oklahoma Workplace Clean Air Act is hereby  
24 declared to be a public nuisance, which may be abated by a

1   restraining order, preliminary and permanent injunction or other  
2   means provided for by law.

3       E. Each day on which a violation of the Oklahoma Workplace  
4   Clean Air Act occurs shall be considered a separate and distinct  
5   violation.

6       SECTION 15.       NEW LAW       A new section of law to be codified  
7   in the Oklahoma Statutes as Section 1-1547 of Title 63, unless there  
8   is created a duplication in numbering, reads as follows:

9       The State Department of Health shall engage in a continuing  
10   education program to explain and clarify the purposes and  
11   requirements of the Oklahoma Workplace Clean Air Act to citizens  
12   affected by it and to guide owners, operators and managers in their  
13   compliance with this act. The program may include publication of a  
14   brochure for affected businesses and individuals explaining the  
15   provisions of the Oklahoma Workplace Clean Air Act.

16       SECTION 16.       AMENDATORY       21 O.S. 2011, Section 1247, as  
17   last amended by Section 1, Chapter 477, O.S.L. 2019 (21 O.S. Supp.  
18   2019, Section 1247), is amended to read as follows:

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

1 Commercial airport operators may prohibit the use of lighted tobacco  
2 or lighted marijuana or the vaping of marijuana in any area that is  
3 open to or used by the public whether located indoors or outdoors,  
4 provided that the outdoor area is within one hundred seventy-five  
5 (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 tobacco smoking provisions of this subsection shall not apply to  
24 veterans centers operated by this state pursuant to the provisions

1 of Section 221 et seq. of Title 72 of the Oklahoma Statutes, which  
2 shall be designated nonsmoking effective January 1, 2015, at which  
3 time veterans centers may establish outdoor designated smoking areas  
4 for resident veterans only. Smoking tobacco shall only be allowed  
5 in designated outdoor smoking areas.

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~~ Oklahoma  
12 Workplace Clean Air Act and all educational facilities as defined in  
13 the 24/7 Tobacco-free Schools Act shall be designated as nonsmoking  
14 as provided for in Section ~~1-1523 of Title 63 of the Oklahoma~~  
15 ~~Statutes~~ 5 of this act. All campuses, buildings and grounds, or  
16 portions thereof, owned or operated by an institution within The  
17 Oklahoma State System of Higher Education may be designated as  
18 tobacco and marijuana free, including smoking or smokeless tobacco  
19 or smokable or vaporable marijuana, by the institution upon adoption  
20 of a policy stating the restrictions for the institution and an  
21 intent to enforce the penalty for violations as set forth in  
22 subsection M of this section.

23 E. No tobacco or marijuana smoking or marijuana vaping shall be  
24 allowed within ~~twenty-five (25)~~ fifteen (15) feet of the entrance or

1 exit of any building specified in subsection B, C or D of this  
2 section.

3 F. The restrictions on tobacco smoking provided in this section  
4 shall not apply to ~~stand-alone bars, stand-alone taverns and cigar~~  
5 ~~bars as defined in Section 1-1522 of Title 63 of the Oklahoma~~  
6 ~~Statutes, retail tobacco stores, and vapor shops.~~

7 G. The restrictions on tobacco smoking provided in this section  
8 shall not apply to 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. 2. 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  
24

1 delivery. It does not include businesses that depend on walk-in  
2 customers for any part of their business;

3 ~~5.~~ 3. Workplaces occupied exclusively by one or more tobacco  
4 smokers, if the workplace has only incidental public access;

5 ~~6.~~ 4. Private offices occupied exclusively by one or more  
6 smokers;

7 ~~7. Workplaces within private residences, except that smoking~~  
8 ~~tobacco or marijuana or vaping marijuana shall not be allowed inside~~  
9 ~~any private residence that is used as a licensed child care facility~~  
10 ~~during hours of operation;~~

11 ~~8.~~ 5. Medical research or treatment centers, if tobacco smoking  
12 is integral to the research or treatment. Furthermore, the  
13 restrictions on smoking or vaping of marijuana provided in this  
14 section shall not apply to medical research or treatment centers, if  
15 marijuana smoking or vaping is integral to the research or  
16 treatment;

17 ~~9.~~ 6. A facility operated by a post or organization of past or  
18 present members of the Armed Forces of the United States which is  
19 exempt from taxation pursuant to Section 501(c)(8), 501(c)(10) or  
20 501(c)(19) of the Internal Revenue Code, 26 U.S.C., Section  
21 501(c)(8), 501(c)(10) or 501(c)(19), when such facility is utilized  
22 exclusively by its members and their families and for the conduct of  
23 post or organization nonprofit operations except during an event or  
24 activity which is open to the public; and

1       ~~10.~~ 7. Any outdoor seating area of a restaurant; provided,  
2 smoking tobacco or smoking or vaping marijuana shall not be allowed  
3 within fifteen (15) feet of any exterior public doorway or any air  
4 intake of a restaurant.

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

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

1 restrictive tobacco smoking policy, including being totally tobacco  
2 smoke free.

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

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

22 L. Responsibility for posting signs or decals shall be as  
23 follows:  
24

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

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

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

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

10       SECTION 17.        AMENDATORY        37 O.S. 2011, Section 600.10, as  
11 amended by Section 10, Chapter 162, O.S.L. 2014, and as renumbered  
12 by Section 178, Chapter 366, O.S.L. 2016 (63 O.S. Supp. 2019,  
13 Section 1-229.20), is amended to read as follows:

14       Section 1-229.20 No agency or other political subdivision of  
15 the state, including, but not limited to, municipalities, counties  
16 or any agency thereof, may adopt any order, ordinance, rule or  
17 regulation concerning the sale, purchase, distribution, advertising,  
18 sampling, promotion, display, possession, licensing or taxation of  
19 tobacco products or vapor products, except as provided in Section  
20 1511 of Title 68 of the Oklahoma Statutes, ~~Section 1-1521 et seq. of~~  
21 ~~Title 63 of the Oklahoma Statutes~~ Sections 1 through 15 of this act  
22 and Section 1247 of Title 21 of the Oklahoma Statutes. Provided,  
23 however, nothing in this section shall preclude or preempt any  
24 agency or political subdivision from exercising its lawful authority

1 to regulate zoning or land use or to enforce a fire code regulation  
2 regulating smoking or tobacco products to the extent that such  
3 regulation is substantially similar to nationally recognized  
4 standard fire codes.

5 SECTION 18. AMENDATORY Section 6, Chapter 369, O.S.L.  
6 2017 (63 O.S. Supp. 2019, Section 1-1530), is amended to read as  
7 follows:

8 Section 1-1530. The Oklahoma State Department of Health and the  
9 Department of Mental Health and Substance Abuse Services shall work  
10 together to develop new and innovative strategies to prevent tobacco  
11 ~~use by~~ minors from smoking as defined in Section 3 of this act.

12 SECTION 19. AMENDATORY 3A O.S. 2011, Section 208.12, is  
13 amended to read as follows:

14 Section 208.12 The gaming areas of the premises of an  
15 organization licensee and, except for the off-track wagering  
16 facilities specified in Section 205.6a of ~~Title 3A of the Oklahoma~~  
17 ~~Statutes~~ this title, the areas where simulcast wagering is conducted  
18 by an organization licensee shall not be subject to the provisions  
19 of Section 1247 of Title 21 of the Oklahoma Statutes or to the  
20 provisions of the ~~Smoking in Public Places and Indoor Workplaces Act~~  
21 Oklahoma Workplace Clean Air Act if the following conditions are  
22 met:

23 1. Each gaming or simulcast area in which smoking is permitted  
24 shall be fully enclosed, directly exhausted to the outside, under

1 negative air pressure so smoke cannot escape to nonsmoking areas  
2 when a door is opened, and no air from a smoking area is  
3 recirculated to nonsmoking areas of the building; and

4 2. No exhaust from such gaming or simulcast area shall be  
5 located within twenty-five (25) feet of any entrance, exit, or air  
6 intake.

7 SECTION 20. REPEALER 63 O.S. 2011, Sections 1-1521, 1-  
8 1522, as amended by Section 5, Chapter 259, O.S.L. 2015, 1-1523, as  
9 last amended by Section 2, Chapter 477, O.S.L. 2019, 1-1525, as last  
10 amended by Section 3, Chapter 477, O.S.L. 2019, 1-1526, 1-1526.1, 1-  
11 1527, as amended by Section 2, Chapter 187, O.S.L. 2013 and Section  
12 5, Chapter 369, O.S.L. 2017 (63 O.S. Supp. 2019, Sections 1-1522, 1-  
13 1523, 1-1525, 1-1527 and 1-1529), are hereby repealed.

14 SECTION 21. This act shall become effective November 1, 2020.

15 Passed the House of Representatives the 11th day of March, 2020.

16

17

\_\_\_\_\_  
Presiding Officer of the House  
of Representatives

19

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Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2020.

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

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