

SENATE CHAMBER
STATE OF OKLAHOMA

DISPOSITION

☐ FLOOR AMENDMENT

No. _____

☐ COMMITTEE AMENDMENT

(Date)

Mr./Madame President:

I move to amend Senate Bill No. 765, by substituting the attached floor substitute for the title, enacting clause and entire body of the measure.

Submitted by:

Senator McCortney

McCortney-DC-FS-Req#2084
3/11/2019 5:00 PM

(Floor Amendments Only) Date and Time Filed: _____

☐ Untimely

☐ Amendment Cycle Extended

☐ Secondary Amendment

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

FLOOR SUBSTITUTE

FOR

SENATE BILL NO. 765

By: McCortney of the Senate

and

Echols of the House

FLOOR SUBSTITUTE

[smoking in public places - prohibitions on smoking
- marijuana -

~~emergency~~]

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

SECTION 1. AMENDATORY 21 O.S. 2011, Section 1247, as
last amended by Section 1, Chapter 110, O.S.L. 2017 (21 O.S. Supp.
2018, Section 1247), is amended to read as follows:

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

1 airport operators may prohibit the use of lighted tobacco or lighted
2 marijuana or the vaping of marijuana in any area that is open to or
3 used by the public whether located indoors or outdoors, provided
4 that the outdoor area is within one hundred seventy-five (175) feet
5 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 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 and marijuana free, including smoking or
18 smokeless tobacco or marijuana or marijuana products, by the
19 institution upon adoption of a policy stating the tobacco
20 restrictions for the institution and an intent to enforce the
21 penalty for violations as set forth in subsection M of this section.

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

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

5 G. The restrictions on tobacco smoking provided in this section
6 shall not apply to the following:

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

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

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

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

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

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

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

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

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

22 10. Any outdoor seating area of a restaurant; provided, smoking
23 tobacco or smoking or vaping marijuana shall not be allowed within
24

1 fifteen (15) feet of any exterior public doorway or any air intake
2 of a restaurant.

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

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

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

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

20 L. Responsibility for posting signs or decals shall be as
21 follows:

22 1. In privately owned facilities, the owner or lessee, if a
23 lessee is in possession of the facilities, shall be responsible;
24

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

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

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

8 SECTION 2. AMENDATORY 63 O.S. 2011, Section 1-1523, as
9 last amended by Section 2, Chapter 110, O.S.L. 2017 (63 O.S. Supp.
10 2018, Section 1-1523), is amended to read as follows:

11 Section 1-1523. A. Except as specifically provided in the
12 Smoking in Public Places and Indoor Workplaces Act, no person shall
13 smoke tobacco or marijuana or vape marijuana in a public place, in
14 any part of a zoo to which the public may be admitted, whether
15 indoors or outdoors, in an indoor workplace, in any vehicle
16 providing public transportation, at a meeting of a public body, in a
17 nursing facility licensed pursuant to the Nursing Home Care Act, or
18 in a child care facility licensed pursuant to the Oklahoma Child
19 Care Facilities Licensing Act. A nursing facility licensed pursuant
20 to the Nursing Home Care Act may designate tobacco smoking rooms for
21 residents and their guests. Such rooms shall be fully enclosed,
22 directly exhausted to the outside, and shall be under negative air
23 pressure so that no tobacco smoke can escape when a door is opened
24 and no air is recirculated to nonsmoking areas of the building.

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 B. 1. Except as otherwise provided in paragraph 2 of this
7 subsection, a technology center school district which offers an
8 early childhood education program or in which children in grades
9 kindergarten through twelve are educated shall prohibit tobacco or
10 marijuana smoking or marijuana vaping, the use of marijuana
11 products, snuff, chewing tobacco or any other form of tobacco
12 product in the educational facility buildings and on the grounds of
13 the facility by all persons including, but not limited to, full-
14 time, part-time, and contract employees, during the hours of 7:00
15 a.m. to 4:00 p.m., during the school session, or when class or any
16 program established for students is in session.

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

22 3. A technology center school district or college or university
23 may designate tobacco smoking areas outside the educational facility
24

1 buildings for the use of adults during certain activities or
2 functions, including, but not limited to, athletic contests.

3 4. Smoking tobacco or marijuana or vaping marijuana shall be
4 prohibited in an educational facility as defined in the 24/7
5 Tobacco-free Schools Act and as provided for in Section 1210.213 of
6 Title 70 of the Oklahoma Statutes.

7 C. Nothing in this section shall be construed to prohibit
8 educational facilities from having more restrictive policies
9 regarding tobacco or marijuana smoking or marijuana vaping and the
10 use of other marijuana or tobacco products in the buildings or on
11 the grounds of the facility.

12 D. A private residence is not a "public place" within the
13 meaning of the Smoking in Public Places and Indoor Workplaces Act
14 except that areas in a private residence that are used as a licensed
15 child care facility during hours of operation are "public places"
16 within the meaning of the Smoking in Public Places and Indoor
17 Workplaces Act.

18 E. Smoking tobacco or marijuana or vaping marijuana is
19 prohibited in all vehicles owned by the State of Oklahoma and all of
20 its agencies and instrumentalities.

21 F. Veterans centers operated by this state pursuant to the
22 provisions of Section 221 et seq. of Title 72 of the Oklahoma
23 Statutes shall be designated nonsmoking effective January 1, 2015,
24 at which time veterans centers may establish outdoor designated

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

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

23 H. The Smoking in Public Places and Indoor Workplaces Act shall
24 not prohibit tobacco smoking in:

1 1. Stand-alone bars, stand-alone taverns or cigar bars;

2 2. The room or rooms where licensed charitable bingo games are
3 being operated, but only during the hours of operation of such
4 games;

5 3. Up to twenty-five percent (25%) of the guest rooms at a
6 hotel or other lodging establishment;

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

11 5. Workplaces where only the owner or operator of the
12 workplace, or the immediate family of the owner or operator,
13 performs any work in the workplace, and the workplace has only
14 incidental public access;

15 6. Workplaces occupied exclusively by one or more tobacco
16 smokers, if the workplace has only incidental public access.

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

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

23 8. Workplaces within private residences, except that smoking
24 tobacco or marijuana or vaping marijuana shall not be allowed inside

1 any private residence that is used as a licensed child care facility
2 during hours of operation;

3 9. A facility operated by a post or organization of past or
4 present members of the Armed Forces of the United States which is
5 exempt from taxation pursuant to Sections 501(c)(8), 501(c)(10) or
6 501(c)(19) of the Internal Revenue Code, 26 U.S.C., Section
7 501(c)(8), 501(c)(10) or 501(c)(19), when such facility is utilized
8 exclusively by its members and their families and for the conduct of
9 post or organization nonprofit operations except during an event or
10 activity which is open to the public;

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

15 11. Medical research or treatment centers, if tobacco smoking
16 is integral to the research or treatment. Furthermore, the
17 restrictions on smoking or vaping of marijuana provided in this
18 section shall not apply to medical research or treatment centers, if
19 marijuana smoking or vaping is integral to the research or
20 treatment.

21 I. Notwithstanding any other provision of the Smoking in Public
22 Places and Indoor Workplaces Act, until March 1, 2006, restaurants
23 may have designated tobacco smoking and nonsmoking areas or may be
24 designated as being a totally nonsmoking area. Beginning March 1,

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

12 SECTION 3. AMENDATORY 63 O.S. 2011, Section 1-1525, as
13 amended by Section 3, Chapter 369, O.S.L. 2017 (63 O.S. Supp. 2018,
14 Section 1-1525), is amended to read as follows:

15 Section 1-1525. The state or local governmental agency or the
16 person who owns or operates a public place shall, at a minimum, do
17 the following in order to prevent tobacco or marijuana smoking or
18 marijuana vaping in public places:

19 1. Post conspicuous signs at entrances to and in prominent
20 locations within places where tobacco or marijuana smoking or
21 marijuana vaping is prohibited which state that tobacco or marijuana
22 smoking or marijuana vaping is prohibited or that the indoor
23 environment is free of tobacco or marijuana smoke or marijuana
24 vapor; and

1 2. Ask tobacco or marijuana smokers or marijuana vapers to
2 refrain from smoking upon observation of anyone violating the
3 provisions of Section 1-1521 et seq. of this title.

4 ~~SECTION 4. It being immediately necessary for the preservation~~
5 ~~of the public peace, health or safety, an emergency is hereby~~
6 ~~declared to exist, by reason whereof this act shall take effect and~~
7 ~~be in full force from and after its passage and approval.~~

8
9 57-1-2084 DC 3/11/2019 5:00:44 PM