

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 SENATE BILL 290

By: Dossett

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5
6 AS INTRODUCED

7 An Act relating to smoking in public places; amending
8 21 O.S. 2011, Section 1247, as last amended by
9 Section 1, Chapter 110, O.S.L. 2017 (21 O.S. Supp.
10 2018, Section 1247), which relates to prohibitions on
11 smoking; adding vapor products to certain provisions;
12 amending 63 O.S. 2011, Section 1-1522, as amended by
13 Section 5, Chapter 259, O.S.L. 2015 (63 O.S. Supp.
14 2018, Section 1-1522), which relates to definitions;
15 adding definition; amending 63 O.S. 2011, Section 1-
16 1523, as last amended by Section 2, Chapter 110,
17 O.S.L. 2017 (63 O.S. Supp. 2018, Section 1-1523),
18 which relates to prohibitions on smoking; adding
19 vapor products to certain provisions; amending 63
20 O.S. 2011, Section 1-1525, as amended by Section 3,
21 Chapter 369, O.S.L. 2017 (63 O.S. Supp. 2018, Section
22 1-1525), which relates to measures to prevent smoking
23 in nonsmoking areas; adding vapor products to certain
24 provisions; and providing an effective date.

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

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

22 Section 1247. A. The possession of lighted tobacco in any form
23 and the use of vapor products is a public nuisance and dangerous to
24 public health and is hereby prohibited when such possession or use

1 is in any indoor place used by or open to the public, all parts of a
2 zoo to which the public may be admitted, whether indoors or
3 outdoors, public transportation, or any indoor workplace, except
4 where specifically allowed by law. Commercial airport operators may
5 prohibit the use of lighted tobacco or vapor products in any area
6 that is open to or used by the public whether located indoors or
7 outdoors, provided that the outdoor area is within one hundred
8 seventy-five (175) feet from an entrance.

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

1 B. All buildings and other properties, or portions thereof,
2 owned or operated by this state shall be designated as nonsmoking,
3 which shall include prohibition of the use of vapor products. The
4 provisions of this subsection shall not apply to veterans centers
5 operated by this state pursuant to the provisions of Section 221 et
6 seq. of Title 72 of the Oklahoma Statutes, which shall be designated
7 nonsmoking effective January 1, 2015, at which time veterans centers
8 may establish outdoor designated smoking areas for resident veterans
9 only. Smoking and vaping shall only be allowed in designated
10 outdoor smoking areas.

11 C. All buildings and other properties, or portions thereof,
12 owned or operated by a county or municipal government, at the
13 discretion of the county or municipal governing body, may be
14 designated as entirely nonsmoking.

15 D. All educational facilities or portions thereof as defined in
16 the Smoking in Public Places and Indoor Workplaces Act and all
17 educational facilities as defined in the 24/7 Tobacco-free Schools
18 Act shall be designated as nonsmoking as provided for in Section 1-
19 1523 of Title 63 of the Oklahoma Statutes. All campuses, buildings
20 and grounds, or portions thereof, owned or operated by an
21 institution within The Oklahoma State System of Higher Education may
22 be designated as tobacco and vapor product free, including smoking
23 or smokeless tobacco and vapor products, by the institution upon
24 adoption of a policy stating the tobacco restrictions for the

1 institution and an intent to enforce the penalty for violations as
2 set forth in subsection M of this section.

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

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

9 G. The restrictions provided in this section shall not apply to
10 the following:

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

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

16 3. Retail tobacco or vapor product stores predominantly engaged
17 in the sale of tobacco or vapor products and accessories and in
18 which the sale of other products is merely incidental and in which
19 no food or beverage is sold or served for consumption on the
20 premises;

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

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

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

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

11 8. Medical research or treatment centers, if smoking or vaping
12 is integral to the research or treatment;

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

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

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

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

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

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

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

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

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

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

6 SECTION 2. AMENDATORY 63 O.S. 2011, Section 1-1522, as
7 amended by Section 5, Chapter 259, O.S.L. 2015 (63 O.S. Supp. 2018,
8 Section 1-1522), is amended to read as follows:

9 Section 1-1522. As used in this act:

10 1. "Educational facility" means a building owned, leased or
11 under the control of a technology center school district or a public
12 or private college or university;

13 2. "Health facility" means an entity which provides health
14 services, including, but not limited to, hospitals, nursing homes,
15 long-term care facilities, kidney disease treatment centers, health
16 maintenance organizations and ambulatory treatment centers;

17 3. "Indoor workplace" means any indoor place of employment or
18 employment-type service for or at the request of another individual
19 or individuals, or any public or private entity, whether part-time
20 or full-time and whether for compensation or not. Such services
21 shall include, without limitation, any service performed by an
22 owner, employee, independent contractor, agent, partner, proprietor,
23 manager, officer, director, apprentice, trainee, associate, servant
24 or volunteer. An indoor workplace includes work areas, employee

1 lounges, restrooms, conference rooms, classrooms, employee
2 cafeterias, hallways, any other spaces used or visited by employees,
3 and all space between a floor and ceiling that is predominantly or
4 totally enclosed by walls or windows, regardless of doors, doorways,
5 open or closed windows, stairways, or the like. The provisions of
6 this section shall apply to such indoor workplace at any given time,
7 whether or not work is being performed;

8 4. "Meeting" means a meeting as defined in the Oklahoma Open
9 Meeting Act;

10 5. "Public body" means a public body as defined in the Oklahoma
11 Open Meeting Act;

12 6. "Public place" means any enclosed indoor area where
13 individuals other than employees are invited or permitted;

14 7. "Restaurant" means any eating establishment regardless of
15 seating capacity;

16 8. "Smoking" means the carrying by a person of a lighted cigar,
17 cigarette, pipe or other lighted smoking device; ~~and~~

18 9. "Stand-alone bar", "stand-alone tavern", and "cigar bar"
19 mean an establishment that derives more than sixty percent (60%) of
20 its gross receipts, subject to verification by competent authority,
21 from the sale of alcoholic beverages and low-point beer and no
22 person under twenty-one (21) years of age is admitted, except for
23 members of a musical band employed or hired as provided in paragraph
24 2 of subsection B of Section 537 of Title 37 of the Oklahoma

1 Statutes and that is not located within, and does not share any
2 common entryway or common indoor area with, any other enclosed
3 indoor workplace, including a restaurant; and

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

20 SECTION 3. AMENDATORY 63 O.S. 2011, Section 1-1523, as
21 last amended by Section 2, Chapter 110, O.S.L. 2017 (63 O.S. Supp.
22 2018, Section 1-1523), is amended to read as follows:

23 Section 1-1523. A. Except as specifically provided in the
24 Smoking in Public Places and Indoor Workplaces Act, no person shall

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

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

1 of 7:00 a.m. to 4:00 p.m., during the school session, or when class
2 or any program established for students is in session.

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

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

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

16 C. Nothing in this section shall be construed to prohibit
17 educational facilities from having more restrictive policies
18 regarding vaping, smoking and the use of other tobacco products in
19 the 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~~ and vaping are prohibited in all vehicles owned
4 by the State of Oklahoma and all of its agencies and
5 instrumentalities.

6 F. Veterans centers operated by this state pursuant to the
7 provisions of Section 221 et seq. of Title 72 of the Oklahoma
8 Statutes shall be designated nonsmoking effective January 1, 2015,
9 at which time veterans centers may establish outdoor designated
10 smoking areas for resident veterans only. Smoking or vaping shall
11 only be allowed in designated outdoor smoking areas.

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

1 space shall be fully enclosed, exhausted directly to the outside
2 with no air from the smoking or vaping space circulated to any
3 nonsmoking area, and under negative air pressure so that no smoke or
4 vapor can drift or circulate into a nonsmoking area when a door to
5 an adjacent nonsmoking area is opened. Air from a smoking or vaping
6 room shall not be exhausted within fifteen (15) feet of any
7 entrance, exit or air intake.

8 H. The Smoking in Public Places and Indoor Workplaces Act shall
9 not prohibit smoking or vaping in:

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

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

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

16 4. Retail tobacco or vapor product stores predominantly engaged
17 in the sale of tobacco or vapor products and accessories and in
18 which the sale of other products is merely incidental and in which
19 no food or beverage is sold or served for consumption on the
20 premises;

21 5. Workplaces where only the owner or operator of the
22 workplace, or the immediate family of the owner or operator,
23 performs any work in the workplace, and the workplace has only
24 incidental public access;

1 6. Workplaces occupied exclusively by one or more smokers, if
2 the workplace has only incidental public access. "Incidental public
3 access" means that a place of business has only an occasional
4 person, who is not an employee, present at the business to transact
5 business or make a delivery. It does not include businesses that
6 depend on walk-in customers for any part of their business;

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

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

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

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

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

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

16 SECTION 4. AMENDATORY 63 O.S. 2011, Section 1-1525, as
17 amended by Section 3, Chapter 369, O.S.L. 2017 (63 O.S. Supp. 2018,
18 Section 1-1525), is amended to read as follows:

19 Section 1-1525. The state or local governmental agency or the
20 person who owns or operates a public place shall, at a minimum, do
21 the following in order to prevent smoking and vaping in public
22 places:

23 1. Post conspicuous signs at entrances to and in prominent
24 locations within places where smoking ~~is~~ and vaping are prohibited

1 which state that smoking ~~is~~ and vaping are prohibited or that the
2 indoor environment is free of vapor and tobacco smoke; and

3 2. Ask smokers and users of vapor products to refrain from
4 smoking and vaping upon observation of anyone violating the
5 provisions of Section 1-1521 et seq. of this title.

6 SECTION 5. This act shall become effective November 1, 2019.

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