

1 ENGROSSED SENATE
2 BILL NO. 1296

By: Paxton of the Senate

3 and

4 McEntire of the House

5
6 An Act relating to smoking in public places; amending
7 21 O.S. 2011, Section 1247, as last amended by
8 Section 1, Chapter 477, O.S.L. 2019 (21 O.S. Supp.
9 2019, Section 1247), which relates to penalties for
10 smoking in certain public areas; modifying authority
11 of county or municipal government to prohibit use of
12 certain products; and declaring an emergency.

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 477, O.S.L. 2019 (21 O.S. Supp.
16 2019, 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 or lighted marijuana or the vaping of marijuana in any area that is
open to or used by the public whether located indoors or outdoors,

1 provided that the outdoor area is within one hundred seventy-five
2 (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 tobacco smoking provisions of this subsection shall not apply to
21 veterans centers operated by this state pursuant to the provisions
22 of Section 221 et seq. of Title 72 of the Oklahoma Statutes, which
23 shall be designated nonsmoking effective January 1, 2015, at which
24 time veterans centers may establish outdoor designated smoking areas

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

3 C. ~~All buildings and other properties, or portions thereof, Any~~
4 building, property, or portion of any building or property owned or
5 operated by a county or municipal government, or any trust or
6 authority with a county or municipal government as the beneficiary,
7 at the discretion of the county or municipal governing body, may be
8 designated as ~~entirely nonsmoking~~ a smoke-free location. For the
9 purposes of this subsection, "smoke-free location" means a location
10 where the use of tobacco, nicotine, marijuana or other lawful
11 products consumed in a smoked or vaporized manner are prohibited.

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

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

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

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

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

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

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

19 4. Workplaces where only the owner or operator of the
20 workplace, or the immediate family of the owner or operator,
21 performs any work in the workplace, and the workplace has only
22 incidental public access. "Incidental public access" means that a
23 place of business has only an occasional person, who is not an
24 employee, present at the business to transact business or make a

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

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

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

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

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

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

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1 10. Any outdoor seating area of a restaurant; provided, smoking
2 tobacco or smoking or vaping marijuana shall not be allowed within
3 fifteen (15) feet of any exterior public doorway or any air intake
4 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) feet
14 of any entrance, exit or air intake. Such room shall be subject to
15 verification for compliance with the provisions of this subsection
16 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:

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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 2. It being immediately necessary for the preservation
11 of the public peace, health or safety, an emergency is hereby
12 declared to exist, by reason whereof this resolution shall take
13 effect and be in full force from and after its passage and approval.

14 Passed the Senate the 2nd day of March, 2020.

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Presiding Officer of the Senate

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18 Passed the House of Representatives the ____ day of _____,
19 2020.

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Presiding Officer of the House
of Representatives

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