

1 **SENATE FLOOR VERSION**

2 February 17, 2020

3 **AS AMENDED**

4 SENATE BILL NO. 1296

5 By: Paxton

6  
7 An Act relating to the Smoking in Public Places and  
8 Indoor Workplaces Act; amending 21 O.S. 2011, Section  
9 1247, as last amended by Section 1, Chapter 477,  
10 O.S.L. 2019 (21 O.S. Supp. 2019, Section 1247), which  
11 relates to penalties for smoking in certain public  
12 areas; **providing for the prohibition of smoking or  
13 vaping in certain buildings;** and providing an  
14 effective date.

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

16 SECTION 1. 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.

Commercial airport operators may prohibit the use of lighted tobacco  
or lighted marijuana or the vaping of marijuana in any area that is

1 open to or used by the public whether located indoors or outdoors,  
2 provided that the outdoor area is within one hundred seventy-five  
3 (175) feet from an entrance.

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

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

1 time veterans centers may establish outdoor designated smoking areas  
2 for resident veterans only. Smoking tobacco shall only be allowed  
3 in designated outdoor smoking areas.

4 C. All buildings and other properties, or portions thereof,  
5 owned or operated by a county or municipal government, at the  
6 discretion of the county or municipal governing body, may be  
7 designated as entirely nonsmoking. **A building or other property or**  
8 **portion thereof owned or operated by a county or municipal**  
9 **government so designated may prohibit tobacco or marijuana smoking,**  
10 **vaping of nicotine or marijuana, or the lawful products which are**  
11 **consumed or used in a smoked or vaporized manner.**

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. This act shall become effective November 1, 2020.

11           COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES  
12 February 17, 2020 - DO PASS AS AMENDED

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