

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 HOUSE BILL 3533

By: Townley

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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 477, O.S.L. 2019 (21 O.S. Supp.
10 2019, Section 1247), which relates to smoking in
11 public places; prohibiting marijuana smoking and
12 marijuana vaping in certain places; amending 63 O.S.
2011, Section 1-1523, as last amended by Section 2,
Chapter 477, O.S.L. 2019 (63 O.S. Supp. 2019, Section
1-1523); prohibiting marijuana smoking and marijuana
vaping in certain places; and providing an effective
date.

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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.

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 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 smokable or vaporable marijuana, by the
19 institution upon adoption of a policy stating the restrictions for
20 the institution and an intent to enforce the penalty for violations
21 as set forth in subsection ~~M~~ N 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;

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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
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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 use is prohibited by law shall be responsible for posting
17 a sign or decal, at least four (4) inches by two (2) inches in size,
18 at each entrance to the building indicating that the place is smoke-
19 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;
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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. No marijuana smoking or marijuana vaping shall be allowed in
6 the following places:

7 1. Stand-alone bars, stand-alone taverns and cigar bars, as
8 defined in Section 1-1522 of Title 63 of the Oklahoma Statutes;

9 2. Outdoor seating areas of restaurants, stand-alone bars,
10 stand-alone taverns and cigar bars; and

11 3. Restaurants that provide nonsmoking areas and designated
12 tobacco smoking rooms.

13 N. Any person who knowingly violates the provisions of this
14 section shall be punished by a citation and fine of not more than
15 One Hundred Dollars (\$100.00).

16 SECTION 2. AMENDATORY 63 O.S. 2011, Section 1-1523, as
17 last amended by Section 2, Chapter 477, O.S.L. 2019 (63 O.S. Supp.
18 2019, Section 1-1523), is amended to read as follows:

19 Section 1-1523. A. Except as specifically provided in the
20 Smoking in Public Places and Indoor Workplaces Act, no person shall
21 smoke tobacco or marijuana or vape marijuana in a public place, in
22 any part of a zoo to which the public may be admitted, whether
23 indoors or outdoors, in an indoor workplace, in any vehicle
24 providing public transportation, at a meeting of a public body, in a

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

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

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

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

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

14 C. Nothing in this section shall be construed to prohibit
15 educational facilities from having more restrictive policies
16 regarding tobacco or marijuana smoking or marijuana vaping and the
17 use of other marijuana or tobacco products in the buildings or on
18 the grounds of the facility.

19 D. A private residence is not a "public place" within the
20 meaning of the Smoking in Public Places and Indoor Workplaces Act
21 except that areas in a private residence that are used as a licensed
22 child care facility during hours of operation are "public places"
23 within the meaning of the Smoking in Public Places and Indoor
24 Workplaces Act.

1 E. Smoking tobacco or marijuana or vaping marijuana is
2 prohibited in all vehicles owned by the State of Oklahoma and all of
3 its agencies and instrumentalities.

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

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

1 negative air pressure so that no tobacco smoke can drift or
2 circulate into a nonsmoking area when a door to an adjacent
3 nonsmoking area is opened. Air from a tobacco smoking room shall
4 not be exhausted within fifteen (15) feet of any entrance, exit or
5 air intake.

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

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

9 2. 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 3. Up to twenty-five percent (25%) of the guest rooms at a
13 hotel or other lodging establishment;

14 4. 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 5. 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;

22 6. Workplaces occupied exclusively by one or more tobacco
23 smokers, if 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 7. Private offices occupied exclusively by one or more smokers;

6 8. 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 9. A facility operated by a post or organization of past or
11 present members of the Armed Forces of the United States which is
12 exempt from taxation pursuant to Sections 501(c)(8), 501(c)(10) or
13 501(c)(19) of the Internal Revenue Code, 26 U.S.C., Section
14 501(c)(8), 501(c)(10) or 501(c)(19), when such facility is utilized
15 exclusively by its members and their families and for the conduct of
16 post or organization nonprofit operations except during an event or
17 activity which is open to the public;

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

22 11. Medical research or treatment centers, if tobacco smoking
23 is integral to the research or treatment. Furthermore, the
24 restrictions on smoking or vaping of marijuana provided in this

1 section shall not apply to medical research or treatment centers, if
2 marijuana smoking or vaping is integral to the research or
3 treatment.

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

19 J. No marijuana smoking or marijuana vaping shall be allowed in
20 the following places:

21 1. Stand-alone bars, stand-alone taverns and cigar bars, as
22 defined in Section 1-1522 of Title 63 of the Oklahoma Statutes;

23 2. Outdoor seating areas of restaurants, stand-alone bars,
24 stand-alone taverns and cigar bars; and

1 3. Restaurants that provide nonsmoking areas and designated
2 tobacco smoking rooms.

3 SECTION 3. This act shall become effective November 1, 2020.

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