

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 57th Legislature (2020)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3384

By: Wright of the House

and

Stanislawski of the Senate

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10 COMMITTEE SUBSTITUTE

11 An Act relating to public health and safety; creating
12 the Oklahoma Workplace Clean Air Act; defining terms;
13 providing for applicability to certain government
14 facilities; prohibiting smoking in enclosed public
15 places; providing exception; prohibiting smoking in
16 enclosed places of employment; prohibiting smoking in
17 certain facilities and outdoor public places;
18 providing exceptions; authorizing certain persons to
19 declare establishment as nonsmoking; requiring
20 certain persons to provide notice of smoking status;
21 prohibiting retaliation; directing the State
22 Department of Health to promulgate rules; directing
23 appropriate entity to impose administrative fine;
24 providing for penalties and violations; authorizing
 adoption of local ordinances; requiring the State
 Department of Health to provide continuing education;
 providing for statutory interpretation; amending 21
 O.S. 2011, Section 1247, as last amended by Section
 1, Chapter 477, O.S.L. 2019 (21 O.S. Supp. 2019,
 Section 1247), which relates to smoking in certain
 public areas; modifying distance requirement;
 modifying exemptions; amending 37 O.S. 2011, Section
 600.10, as amended by Section 10, Chapter 162, O.S.L.
 2014, and as renumbered by Section 178, Chapter 366,
 O.S.L. 2016 (63 O.S. Supp. 2019, Section 1-229.20),
 which relates to regulation by agencies or political
 subdivisions; updating statutory reference; amending

1 Section 6, Chapter 369, O.S.L. 2017 (63 O.S. Supp.
2 2019, Section 1-1530), which relates to strategies
3 preventing tobacco use by minors; expanding
4 applicability; amending 3A O.S. 2011, Section 208.12,
5 which relates to gaming areas not subject to certain
6 smoking prohibitions; updating statutory reference;
7 repealing 63 O.S. 2011, Sections 1-1521, 1-1522, as
8 amended by Section 5, Chapter 259, O.S.L. 2015, 1-
9 1523, as last amended by Section 2, Chapter 477,
10 O.S.L. 2019, 1-1525, as last amended by Section 3,
11 Chapter 477, O.S.L. 2019, 1-1526, 1-1526.1, 1-1527,
12 as amended by Section 2, Chapter 187, O.S.L. 2013 and
13 Section 5, Chapter 369, O.S.L. 2017 (63 O.S. Supp.
14 2019, Sections 1-1522, 1-1523, 1-1525, 1-1527 and 1-
15 1529), which relate to the Smoking in Public Places
16 and Indoor Workplaces Act; providing for
17 codification; and providing an effective date.

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

19 SECTION 1. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 1-1533 of Title 63, unless there
21 is created a duplication in numbering, reads as follows:

22 Sections 1 through 16 of this act shall be known and may be
23 cited as the "Oklahoma Workplace Clean Air Act".

24 SECTION 2. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 1-1534 of Title 63, unless there
is created a duplication in numbering, reads as follows:

As used in the Oklahoma Workplace Clean Air Act:

1. "Adult day care" means a nonresidential facility that
supports the health, nutritional, social and daily living needs of
adults who require assistance or supervision during the day;

1 2. "Business" means a sole proprietorship, partnership, joint
2 venture, corporation or other business entity, either for-profit or
3 not-for-profit, including retail establishments where goods or
4 services are sold, professional corporations and other entities
5 where legal, medical, dental, engineering, architectural or other
6 professional services are delivered, and private clubs;

7 3. "Cigar bar" means an establishment, licensed by the Oklahoma
8 Tax Commission for the retail sale of tobacco products and in
9 existence as of November 1, 2020, that exclusively occupies an
10 enclosed indoor space and is primarily engaged in the retail sale of
11 tobacco products for consumption by customers on the premises.
12 Cigar bars derive at least thirty-five percent (35%) of its
13 quarterly gross receipts, verified by competent authority, from the
14 sale and consumption of tobacco products and accessories, and no
15 person under twenty-one (21) years of age is admitted;

16 4. "Educational facilities" means any property, building,
17 permanent structure, facility, auditorium, stadium, arena or
18 recreational facility owned, leased or under the control of a public
19 school district or private school located in the state. For
20 purposes of this act, a public school district shall not include a
21 technology center school district;

22 5. "Electronic smoking device" means any product containing or
23 delivering nicotine or any other substance intended for human
24 consumption that can be used by a person in any manner for the

1 purpose of inhaling vapor or aerosol from the product. The term
2 includes any such device, whether manufactured, distributed,
3 marketed or sold as an e-cigarette, e-cigar, e-pipe, e-hookah or
4 vape pen, or under any other product name or descriptor;

5 6. "Employee" means a person who performs services for, whether
6 full time or part time, an employer in consideration for direct or
7 indirect monetary wages or profit or a person who volunteers his or
8 her services for any private or public entity or individual whether
9 for compensation or not;

10 7. "Employer" means a person, business, partnership,
11 association, corporation, including a municipal corporation, trust,
12 nonprofit entity or any other entity recognized by law that employs
13 the services of one or more individual persons;

14 8. "Enclosed area" means all space between a floor and a
15 ceiling that is bounded on at least two sides by walls, doorways or
16 windows, whether open or closed. A wall includes any retractable
17 divider, garage door or other physical barrier, whether temporary or
18 permanent and whether or not containing openings of any kind;

19 9. "Health care facility" means any entity which provides
20 health services, including, but not limited to, hospitals,
21 rehabilitation hospitals or other clinics, including weight control
22 clinics, nursing homes, long-term care facilities, homes for the
23 aging or chronically ill, laboratories and offices of surgeons,
24 chiropractors, physical therapists, physicians, psychiatrists,

1 dentists and all specialists within these professions. This
2 definition shall include all waiting rooms, hallways, private rooms,
3 semiprivate rooms and wards within health care facilities;

4 10. "Hookah" means a water pipe and any associated products and
5 devices which are used to produce fumes, smoke and/or vapor from the
6 heating or burning of material, including, but not limited to,
7 tobacco, shisha or other plant matter;

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

22 12. "Place of employment" means an area under the control of a
23 public or private employer, including, but not limited to, work
24 areas, private offices, employee lounges, restrooms, conference

1 rooms, meeting rooms, classrooms, employee cafeterias, hallways,
2 construction sites, temporary offices and vehicles. A private
3 residence is not a place of employment unless it is used as a child
4 care, adult day care or health care facility;

5 13. "Playground" means any park or recreational area designed
6 in part to be used by children that has play or sports equipment
7 installed or that has been designated or landscaped for play or
8 sports activities, or any similar facility located on public or
9 private school grounds or on state grounds or grounds of any
10 political subdivision of the state;

11 14. "Private club" means an organization, whether incorporated
12 or not, which is the owner, lessee or occupant of a building or
13 portion thereof used exclusively for club purposes at all times,
14 which is operated solely for a recreational, fraternal, social,
15 patriotic, political, benevolent or athletic purpose, but not for
16 pecuniary gain, and which only sells alcoholic beverages incidental
17 to its operation. The affairs and management of the organization
18 are conducted by a board of directors, executive committee or
19 similar body chosen by the members at an annual meeting. The
20 organization has established bylaws and/or a constitution to govern
21 its activities. The organization has been granted an exemption from
22 the payment of federal income tax as a club under 26 U.S.C., Section
23 501;

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1 15. "Public event" means an event which is open to and may be
2 attended by the general public, including, but not limited to, such
3 events as concerts, fairs, farmers' markets, festivals, parades,
4 performances and other exhibitions, regardless of any fee or age
5 requirement;

6 16. "Public place" means an area to which the public is invited
7 or in which the public is permitted, including, but not limited to,
8 banks, bars, educational facilities, health care facilities, hotels
9 and motels, laundromats, parking structures, public transportation
10 vehicles and facilities, reception areas, restaurants, retail food
11 production and marketing establishments, retail service
12 establishments, retail stores, shopping malls, sports arenas,
13 theaters and waiting rooms. A private residence is not a public
14 place unless it is used as a child care, adult day care or health
15 care facility;

16 17. "Recreational area" means any indoor or outdoor, public or
17 private area open to the public for recreational purposes, whether
18 or not any fee for admission is charged, including, but not limited
19 to, amusement parks, athletic fields, beaches, fairgrounds, gardens,
20 golf courses, parks, plazas, skate parks, swimming pools, trails and
21 zoos;

22 18. "Restaurant" means any eating establishment regardless of
23 seating capacity, including, but not limited to, coffee shops,
24 cafeterias and sandwich stands, as well as kitchens and catering

1 facilities in which food is prepared on the premises for serving
2 elsewhere. The term "restaurant" shall include a bar area within
3 the restaurant;

4 19. "Retail tobacco store" means a retail establishment that
5 derives more than eighty percent (80%) of its gross revenue from the
6 sale of loose tobacco, cigars, cigarettes, pipes or other smoking
7 devices for burning tobacco and related smoking accessories and in
8 which the sale of other products is merely incidental and in which
9 no food or beverage is sold or served for consumption on the
10 premises;

11 20. "Service line" means an indoor or outdoor line in which one
12 or more persons are waiting for or receiving service of any kind,
13 whether or not the service involves the exchange of money,
14 including, but not limited to, ATM lines, concert lines, food vendor
15 lines, movie ticket lines and sporting event lines;

16 21. "Shopping mall" means an enclosed or unenclosed public
17 walkway or hall area that serves to connect retail or professional
18 establishments;

19 22. "Smoking" means inhaling, exhaling, burning or carrying any
20 lighted or heated cigar, cigarette, pipe, hookah or any other
21 lighted or heated tobacco or plant product intended for inhalation,
22 including marijuana, whether natural or synthetic, in any manner or
23 in any form. Smoking includes the use of an electronic smoking
24 device which creates an aerosol or vapor, in any manner or in any

1 form, or the use of any oral smoking device for the purpose of
2 circumventing the prohibition of smoking in this act;

3 23. "Sports arena" means a place where people assemble to
4 engage in physical exercise, participate in athletic competition or
5 witness sports or other events, including sports pavilions,
6 stadiums, gymnasiums, health spas, boxing arenas, swimming pools,
7 roller and ice rinks and bowling alleys;

8 24. "Bar" and "tavern" means an establishment that derives more
9 than sixty percent (60%) of its gross receipts, subject to
10 verification by competent authority, from the sale of alcoholic
11 beverages and low-point beer and no person under twenty-one (21)
12 years of age is admitted, except for members of a musical band
13 employed or hired as provided in paragraph 2 of Section 6-102 of
14 Title 37A of the Oklahoma Statutes, and that is not located within,
15 and does not share any common entryway or common indoor area with,
16 any other enclosed indoor workplace, including a restaurant;

17 25. "Vapor product" means noncombustible products that may or
18 may not contain nicotine that employ a mechanical heating element,
19 battery, electronic circuit or other mechanism, regardless of shape
20 or size, that can be used to produce a vapor in a solution or other
21 form. Vapor products shall include any vapor cartridge or other
22 container, with or without nicotine, or other form that is intended
23 to be used with an electronic cigarette, electronic cigar,
24 electronic cigarillo, electronic pipe or similar product or device

1 and any vapor cartridge or other container of a solution that may or
2 may not contain nicotine and that is intended to be used with or in
3 an electronic cigarette, electronic cigar, electronic cigarillo or
4 electronic device. Vapor products do not include any products
5 regulated by the United States Food and Drug Administration under
6 Chapter V of the Food, Drug, and Cosmetic Act; and

7 26. "Vapor shop" means any enclosed indoor workplace dedicated
8 to or predominately for the retail sale of vapor-generating
9 electronic devices and components, parts and accessories for such
10 products, in which the sale of other products or services is merely
11 incidental.

12 SECTION 3. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 1-1535 of Title 63, unless there
14 is created a duplication in numbering, reads as follows:

15 All enclosed areas, including buildings and vehicles owned,
16 leased, operated or contracted for use by the state or any of its
17 subdivisions, as well as all outdoor property adjacent to such
18 buildings and under the control of the state, shall be subject to
19 the provisions of the Oklahoma Workplace Clean Air Act.

20 SECTION 4. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 1-1536 of Title 63, unless there
22 is created a duplication in numbering, reads as follows:

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1 A. Smoking shall be prohibited in all enclosed public places
2 and indoor recreational areas within the State of Oklahoma,
3 including, but not limited to, the following places:

- 4 1. Aquariums, galleries, libraries and museums;
- 5 2. Areas inside businesses and nonprofit entities patronized by
6 the public, including, but not limited to, banks, laundromats,
7 professional offices and retail service establishments;
- 8 3. Bars;
- 9 4. Bingo facilities;
- 10 5. Child care and adult day care facilities;
- 11 6. Convention facilities;
- 12 7. Educational facilities;
- 13 8. Elevators;
- 14 9. Health care facilities;
- 15 10. Hotels and motels;
- 16 11. Lobbies, hallways and other common areas in apartment
17 buildings, condominiums, trailer parks, retirement facilities,
18 nursing homes and other multiple-unit residential facilities;
- 19 12. Parking structures;
- 20 13. Polling places;
- 21 14. Public transportation vehicles, including buses and
22 taxicabs under the authority of the state, and public transportation
23 facilities, including bus, train and airport facilities;
- 24 15. Restaurants;

1 16. Restrooms, lobbies, reception areas, hallways and other
2 common-use areas;

3 17. Retail stores;

4 18. Rooms, chambers, places of meeting or public assembly,
5 including school buildings, under the control of an agency, board,
6 commission, committee or council of the state or a political
7 subdivision of the state;

8 19. Service lines;

9 20. Shopping malls;

10 21. Sports arenas, including enclosed places in outdoor arenas;
11 and

12 22. Theaters and other facilities primarily used for exhibiting
13 motion pictures, stage dramas, lectures, musical recitals or other
14 similar performances.

15 B. The Oklahoma Workplace Clean Air Act shall not prohibit
16 smoking in medical research or treatment centers, if smoking is
17 integral to research or treatment.

18 C. The Oklahoma Workplace Clean Air Act shall not apply to the
19 following:

20 1. Cigar bars in existence as of November 1, 2020;

21 2. Retail tobacco stores in existence as of November 1, 2020;

22 3. Vapor shops in existence as of November 1, 2020;

23 4. Restaurants in existence as of November 1, 2020, that have

24 designated tobacco smoking rooms which shall be in a location which

1 is fully enclosed, directly exhausted to the outside, under negative
2 air pressure so tobacco smoke cannot escape when a door is opened,
3 and no air is recirculated to nonsmoking areas of the building. No
4 exhaust from such room shall be located within fifteen (15) feet of
5 any entrance, exit or air intake. Such room shall be subject to
6 verification for compliance with the provisions of this paragraph by
7 the State Department of Health; and

8 5. Workplaces, including private residential businesses where
9 only the owner or operator of the workplace performs any work in the
10 workplace, and the workplace has only incidental public access.

11 "Incidental public access" means that a place of business has only
12 an occasional person, who is not an employee, present at the
13 business to transact business or make a delivery. It does not
14 include businesses that depend on walk-in customers for any part of
15 their business.

16 SECTION 5. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 1-1537 of Title 63, unless there
18 is created a duplication in numbering, reads as follows:

19 A. Smoking shall be prohibited in all enclosed areas of places
20 of employment without exception. This includes, without limitation,
21 work areas, auditoriums, classrooms, conference and meeting rooms,
22 private offices, elevators, hallways, medical facilities,
23 cafeterias, employee lounges, stairs, restrooms, vehicles and all
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1 other enclosed facilities, and any other spaces used or visited by
2 employees.

3 B. This prohibition on smoking shall be communicated to all
4 existing employees by January 1, 2021, and to all prospective
5 employees upon their application for employment.

6 SECTION 6. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 1-1538 of Title 63, unless there
8 is created a duplication in numbering, reads as follows:

9 Smoking shall be prohibited in the following indoor and outdoor
10 places:

11 1. All private clubs;

12 2. All private and semiprivate rooms in nursing homes;

13 3. All hotel and motel guest rooms;

14 4. Within fifteen (15) feet of outside entrances, operable
15 windows and ventilation systems of enclosed areas where smoking is
16 prohibited, so as to prevent tobacco smoke from entering those
17 areas;

18 5. On all outdoor property that is adjacent to buildings owned,
19 leased or operated by the state and that is under the control of the
20 state;

21 6. In outdoor shopping malls, including parking structures;

22 7. In all outdoor arenas, stadiums and amphitheaters. Smoking
23 shall also be prohibited in, and within fifteen (15) feet of,
24

1 bleachers and grandstands for use by spectators at sporting and
2 other public events;

3 8. In outdoor recreational areas, including parking lots;

4 9. In, and within fifteen (15) feet of, all outdoor
5 playgrounds;

6 10. In, and within fifteen (15) feet of, all outdoor public
7 events;

8 11. In, and within fifteen (15) feet of, all outdoor public
9 transportation stations, platforms and shelters under the authority
10 of the state or any of its subdivisions; and

11 12. In outdoor common areas of apartment buildings,
12 condominiums, trailer parks, retirement facilities, nursing homes
13 and other multiple-unit residential facilities, except in designated
14 smoking areas, not to exceed twenty-five percent (25%) of the total
15 outdoor common area, which must be located at least fifteen (15)
16 feet outside entrances, operable windows and ventilation systems of
17 enclosed areas where smoking is prohibited. Outdoor common areas do
18 not include private patios or balconies.

19 SECTION 7. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 1-1539 of Title 63, unless there
21 is created a duplication in numbering, reads as follows:

22 Notwithstanding any other provision of the Oklahoma Workplace
23 Clean Air Act to the contrary, smoking shall not be prohibited in
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1 private residences, unless used as a child care, adult day care or
2 health care facility.

3 SECTION 8. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 1-1540 of Title 63, unless there
5 is created a duplication in numbering, reads as follows:

6 Notwithstanding any other provision of the Oklahoma Workplace
7 Clean Air Act, an owner, operator, manager or other person in
8 control of an establishment, facility or outdoor area may declare
9 that entire establishment, facility or outdoor area as a nonsmoking
10 place. Smoking shall be prohibited in any place in which a sign
11 conforming to the requirements of Section 9 of this act is posted.

12 SECTION 9. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 1-1541 of Title 63, unless there
14 is created a duplication in numbering, reads as follows:

15 The owner, operator, manager or other person in control of a
16 place of employment, public place, private club or residential
17 facility where smoking is prohibited by the Oklahoma Workplace Clean
18 Air Act shall:

19 1. Clearly and conspicuously post "No Smoking" signs or signs
20 stating that the place is a smoke-free environment;

21 2. Clearly and conspicuously post signs at every entrance
22 stating that smoking is prohibited or that the place is a smoke-free
23 environment or, in the case of outdoor places, clearly and
24 conspicuously post such signs in appropriate locations;

1 3. Clearly and conspicuously post on every vehicle that
2 constitutes a place of employment under this act at least one sign,
3 visible from the exterior of the vehicle, stating that smoking is
4 prohibited or that the vehicle is a smoke-free environment; and

5 4. Remove all ashtrays from any area where smoking is
6 prohibited by the Oklahoma Workplace Clean Air Act, except for
7 ashtrays displayed for sale and not for use on the premises.

8 SECTION 10. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 1-1542 of Title 63, unless there
10 is created a duplication in numbering, reads as follows:

11 A. No person or employer shall discharge, refuse to hire, or in
12 any manner retaliate against an employee, applicant for employment,
13 customer or resident of a multiple-unit residential facility because
14 that employee, applicant, customer or resident exercises any rights
15 afforded by the Oklahoma Workplace Clean Air Act or reports or
16 attempts to prosecute a violation of this act. In addition to any
17 administrative fines imposed pursuant to Section 12 of this act, a
18 conviction for a violation of this subsection shall be a
19 misdemeanor, punishable by a fine not to exceed One Thousand Dollars
20 (\$1,000.00) for each violation.

21 B. An employee who works in a setting where an employer allows
22 smoking does not waive or otherwise surrender any legal rights the
23 employee may have against the employer or any other party.

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1 SECTION 11. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1-1543 of Title 63, unless there
3 is created a duplication in numbering, reads as follows:

4 The State Department of Health shall promulgate rules necessary
5 to implement the provisions of the Oklahoma Workplace Clean Air Act.

6 SECTION 12. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 1-1544 of Title 63, unless there
8 is created a duplication in numbering, reads as follows:

9 A. In addition to any other penalties authorized by law, the
10 Commissioner of Health or the Department of Human Services,
11 whichever is the appropriate entity, shall impose administrative
12 fines against nursing facilities, employees of nursing facilities,
13 or both nursing facilities and employees of nursing facilities,
14 restaurants, food establishments and child care facilities for
15 violations of the Oklahoma Workplace Clean Air Act.

16 B. Any citizen who desires to register a complaint under the
17 Oklahoma Workplace Clean Air Act may do so with the State Department
18 of Health.

19 C. Local health departments, fire departments and their
20 designees shall, while an establishment is undergoing otherwise
21 mandated inspections, inspect for compliance with the Oklahoma
22 Workplace Clean Air Act.

23 D. An owner, manager, operator or employee of an area regulated
24 by the Oklahoma Workplace Clean Air Act may direct a person who is

1 smoking in violation of this act to extinguish or turn off the
2 product being smoked. If the person does not stop smoking, the
3 owner, manager, operator or employee shall refuse service and may
4 immediately ask the person to leave the premises. If the person in
5 violation refuses to leave the premises, the owner, manager,
6 operator or employee may contact a law enforcement agency.

7 E. Nothing in this section shall prevent an employee or private
8 citizen from bringing legal action to enforce the Oklahoma Workplace
9 Clean Air Act.

10 F. Nothing in this section shall prevent the State Department
11 of Health from implementing a complaint system for the reporting of
12 violations of the Oklahoma Workplace Clean Air Act.

13 SECTION 13. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 1-1545 of Title 63, unless there
15 is created a duplication in numbering, reads as follows:

16 A. Any person who smokes in an area where smoking is prohibited
17 by the provisions of the Oklahoma Workplace Clean Air Act shall be
18 punished by a citation and fine of not more than One Hundred Dollars
19 (\$100.00).

20 B. Except as otherwise provided in Section 10 of this act, a
21 person who owns, manages, operates or otherwise controls a public
22 place or place of employment and who fails to comply with the
23 provisions of the Oklahoma Workplace Clean Air Act shall be punished
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1 by a citation and fine or an administrative fine in the following
2 amounts:

3 1. A fine not to exceed One Hundred Dollars (\$100.00) for a
4 first violation;

5 2. A fine not to exceed Two Hundred Dollars (\$200.00) for a
6 second violation within one (1) year; and

7 3. A fine not to exceed Five Hundred Dollars (\$500.00) for each
8 additional violation within one (1) year.

9 C. In addition to the fines established by this section, a
10 violation of the Oklahoma Workplace Clean Air Act by a person who
11 owns, manages, operates or otherwise controls a public place or
12 place of employment may result in the suspension or revocation of
13 any permit or license issued to the person for the premises on which
14 the violation occurred.

15 D. Violation of the Oklahoma Workplace Clean Air Act is hereby
16 declared to be a public nuisance, which may be abated by restraining
17 order, preliminary and permanent injunction or other means provided
18 for by law.

19 E. Each day on which a violation of the Oklahoma Workplace
20 Clean Air Act occurs shall be considered a separate and distinct
21 violation.

22 SECTION 14. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 1-1546 of Title 63, unless there
24 is created a duplication in numbering, reads as follows:

1 Nothing in the Oklahoma Workplace Clean Air Act shall be
2 construed to prevent a political subdivision of the state from
3 adopting local ordinances or regulations relating to smoking in
4 workplaces and public places that are more restrictive than this
5 act, nor does this act repeal any existing local ordinances or
6 regulations that provide restrictions on smoking that are
7 substantially equivalent to, or greater than, those provided by this
8 act.

9 SECTION 15. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 1-1547 of Title 63, unless there
11 is created a duplication in numbering, reads as follows:

12 The State Department of Health shall engage in a continuing
13 education program to explain and clarify the purposes and
14 requirements of this act to citizens affected by it and to guide
15 owners, operators and managers in their compliance with it. The
16 program may include publication of a brochure for affected
17 businesses and individuals explaining the provisions of the Oklahoma
18 Workplace Clean Air Act.

19 SECTION 16. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 1-1548 of Title 63, unless there
21 is created a duplication in numbering, reads as follows:

22 The Oklahoma Workplace Clean Air Act shall not be interpreted or
23 construed to permit smoking where it is otherwise restricted by
24 other applicable state or local laws.

1 SECTION 17. AMENDATORY 21 O.S. 2011, Section 1247, as
2 last amended by Section 1, Chapter 477, O.S.L. 2019 (21 O.S. Supp.
3 2019, Section 1247), is amended to read as follows:

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

10 Commercial airport operators may prohibit the use of lighted tobacco
11 or lighted marijuana or the vaping of marijuana in any area that is
12 open to or used by the public whether located indoors or outdoors,
13 provided that the outdoor area is within one hundred seventy-five
14 (175) feet from an entrance.

15 As used in this section, "indoor workplace" means any indoor
16 place of employment or employment-type service for or at the request
17 of another individual or individuals, or any public or private
18 entity, whether part-time or full-time and whether for compensation
19 or not. Such services shall include, without limitation, any
20 service performed by an owner, employee, independent contractor,
21 agent, partner, proprietor, manager, officer, director, apprentice,
22 trainee, associate, servant or volunteer. An indoor workplace
23 includes work areas, employee lounges, restrooms, conference rooms,
24 classrooms, employee cafeterias, hallways, any other spaces used or

1 visited by employees, and all space between a floor and ceiling that
2 is predominantly or totally enclosed by walls or windows, regardless
3 of doors, doorways, open or closed windows, stairways, or the like.
4 The provisions of this section shall apply to such indoor workplace
5 at any given time, whether or not work is being performed.

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

15 C. All buildings and other properties, or portions thereof,
16 owned or operated by a county or municipal government, at the
17 discretion of the county or municipal governing body, may be
18 designated as entirely nonsmoking.

19 D. All educational facilities or portions thereof as defined in
20 the ~~Smoking in Public Places and Indoor Workplaces Act~~ Oklahoma
21 Workplace Clean Air Act and all educational facilities as defined in
22 the 24/7 Tobacco-free Schools Act shall be designated as nonsmoking
23 as provided for in Section ~~1-1523 of Title 63 of the Oklahoma~~
24 ~~Statutes~~ 4 of this act. All campuses, buildings and grounds, or

1 portions thereof, owned or operated by an institution within The
2 Oklahoma State System of Higher Education may be designated as
3 tobacco and marijuana free, including smoking or smokeless tobacco
4 or smokable or vaporable marijuana, by the institution upon adoption
5 of a policy stating the restrictions for the institution and an
6 intent to enforce the penalty for violations as set forth in
7 subsection M of this section.

8 E. No tobacco or marijuana smoking or marijuana vaping shall be
9 allowed within ~~twenty-five (25)~~ fifteen (15) feet of the entrance or
10 exit of any building specified in subsection B, C or D of this
11 section.

12 F. The restrictions on tobacco smoking provided in this section
13 shall not apply to ~~stand-alone bars, stand-alone taverns and cigar~~
14 ~~bars as defined in Section 1-1522 of Title 63 of the Oklahoma~~
15 Statutes, retail tobacco stores, and vapor shops that are in
16 existence as of November 1, 2020.

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

19 1. ~~The room or rooms where licensed charitable bingo games are~~
20 ~~being operated, but only during the hours of operation of such~~
21 ~~games;~~

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

24

1 ~~3.~~ Retail tobacco stores in existence as of November 1, 2020,
2 predominantly engaged in the sale of tobacco products and
3 accessories and in which the sale of other products is merely
4 incidental and in which no food or beverage is sold or served for
5 consumption on the premises;

6 ~~4.~~ 2. Workplaces where only the owner or operator of the
7 workplace, or the immediate family of the owner or operator,
8 performs any work in the workplace, and the workplace has only
9 incidental public access. "Incidental public access" means that a
10 place of business has only an occasional person, who is not an
11 employee, present at the business to transact business or make a
12 delivery. It does not include businesses that depend on walk-in
13 customers for any part of their business;

14 ~~5.~~ 3. Workplaces occupied exclusively by one or more tobacco
15 smokers, if the workplace has only incidental public access;

16 ~~6.~~ 4. Private offices occupied exclusively by one or more
17 smokers;

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

22 ~~8.~~ 5. 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 ~~9.~~ 6. A facility operated by a post or organization of past or
5 present members of the Armed Forces of the United States which is
6 exempt from taxation pursuant to Section 501(c)(8), 501(c)(10) or
7 501(c)(19) of the Internal Revenue Code, 26 U.S.C., Section
8 501(c)(8), 501(c)(10) or 501(c)(19), when such facility is utilized
9 exclusively by its members and their families and for the conduct of
10 post or organization nonprofit operations except during an event or
11 activity which is open to the public; and

12 ~~10.~~ 7. Any outdoor seating area of a restaurant; provided,
13 smoking tobacco or smoking or vaping marijuana shall not be allowed
14 within fifteen (15) feet of any exterior public doorway or any air
15 intake of a restaurant.

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

24

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

15 J. Notwithstanding any other provision of this section, until
16 March 1, 2006, restaurants may have designated tobacco smoking and
17 nonsmoking areas or may be designated as being a totally nonsmoking
18 area. Beginning March 1, 2006, restaurants shall be totally
19 nonsmoking or may provide nonsmoking areas and designated tobacco
20 smoking rooms. Food and beverage may be served in such designated
21 tobacco smoking rooms which shall be in a location which is fully
22 enclosed, directly exhausted to the outside, under negative air
23 pressure so tobacco smoke cannot escape when a door is opened, and
24 no air is recirculated to nonsmoking areas of the building. No

1 exhaust from such room shall be located within ~~twenty-five (25)~~
2 fifteen (15) feet of any entrance, exit or air intake. Such room
3 shall be subject to verification for compliance with the provisions
4 of this subsection by the State Department of Health.

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

10 L. Responsibility for posting signs or decals shall be as
11 follows:

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

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

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

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

21 SECTION 18. AMENDATORY 37 O.S. 2011, Section 600.10, as
22 amended by Section 10, Chapter 162, O.S.L. 2014, and as renumbered
23 by Section 178, Chapter 366, O.S.L. 2016 (63 O.S. Supp. 2019,
24 Section 1-229.20), is amended to read as follows:

1 Section 1-229.20 No agency or other political subdivision of
2 the state, including, but not limited to, municipalities, counties
3 or any agency thereof, may adopt any order, ordinance, rule or
4 regulation concerning the sale, purchase, distribution, advertising,
5 sampling, promotion, display, possession, licensing or taxation of
6 tobacco products or vapor products, except as provided in Section
7 1511 of Title 68 of the Oklahoma Statutes, ~~Section 1-1521 et seq. of~~
8 ~~Title 63 of the Oklahoma Statutes~~ Sections 1 through 16 of this act
9 and Section 1247 of Title 21 of the Oklahoma Statutes. Provided,
10 however, nothing in this section shall preclude or preempt any
11 agency or political subdivision from exercising its lawful authority
12 to regulate zoning or land use or to enforce a fire code regulation
13 regulating smoking or tobacco products to the extent that such
14 regulation is substantially similar to nationally recognized
15 standard fire codes.

16 SECTION 19. AMENDATORY Section 6, Chapter 369, O.S.L.
17 2017 (63 O.S. Supp. 2019, Section 1-1530), is amended to read as
18 follows:

19 Section 1-1530. The Oklahoma State Department of Health and the
20 Department of Mental Health and Substance Abuse Services shall work
21 together to develop new and innovative strategies to prevent ~~tobacco~~
22 ~~use by minors~~ from smoking as defined in Section 2 of this act.

23 SECTION 20. AMENDATORY 3A O.S. 2011, Section 208.12, is
24 amended to read as follows:

1 Section 208.12 The gaming areas of the premises of an
2 organization licensee and, except for the off-track wagering
3 facilities specified in Section 205.6a of ~~Title 3A of the Oklahoma~~
4 ~~Statutes~~ this title, the areas where simulcast wagering is conducted
5 by an organization licensee shall not be subject to the provisions
6 of Section 1247 of Title 21 of the Oklahoma Statutes or to the
7 provisions of the ~~Smoking in Public Places and Indoor Workplaces Act~~
8 Oklahoma Workplace Clean Air Act if the following conditions are
9 met:

10 1. Each gaming or simulcast area in which smoking is permitted
11 shall be fully enclosed, directly exhausted to the outside, under
12 negative air pressure so smoke cannot escape to nonsmoking areas
13 when a door is opened, and no air from a smoking area is
14 recirculated to nonsmoking areas of the building; and

15 2. No exhaust from such gaming or simulcast area shall be
16 located within twenty-five (25) feet of any entrance, exit, or air
17 intake.

18 SECTION 21. REPEALER 63 O.S. 2011, Sections 1-1521, 1-
19 1522, as amended by Section 5, Chapter 259, O.S.L. 2015, 1-1523, as
20 last amended by Section 2, Chapter 477, O.S.L. 2019, 1-1525, as last
21 amended by Section 3, Chapter 477, O.S.L. 2019, 1-1526, 1-1526.1, 1-
22 1527, as amended by Section 2, Chapter 187, O.S.L. 2013 and Section
23 5, Chapter 369, O.S.L. 2017 (63 O.S. Supp. 2019, Sections 1-1522, 1-
24 1523, 1-1525, 1-1527 and 1-1529), are hereby repealed.

SECTION 22. This act shall become effective November 1, 2020.

COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 02/26/2020 - DO
PASS, As Amended and Coauthored.