

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE

4 FOR

HOUSE BILL NO. 1389

By: Townley

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8 COMMITTEE SUBSTITUTE

9 An Act relating to public health and safety; amending  
10 63 O.S. 2011, Sections 1-1522, as amended by Section  
11 5, Chapter 259, O.S.L. 2015, and 1-1523, as last  
12 amended by Section 2, Chapter 110, O.S.L. 2017 (63  
13 O.S. Supp. 2018, Sections 1-1522 and 1-1523), which  
14 relate to the Smoking in Public Places and Indoor  
15 Workplaces Act; modifying definition to include  
16 lighted marijuana and electronic cigarettes;  
17 prohibiting smoking in the presence of minors; and  
18 providing an effective date.

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

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

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

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

1       2. "Electronic smoking device" means any product containing or  
2 delivering nicotine or any other substance intended for human  
3 consumption that can be used by a person in any manner for the  
4 purpose of inhaling vapor or aerosol from the product. The term  
5 includes any such device, whether manufactured, distributed,  
6 marketed or sold as an e-cigarette, e-cigar, e-pipe, e-hookah or  
7 vape pen, or under any other product name or descriptor;

8       3. "Health facility" means an entity which provides health  
9 services, including, but not limited to, hospitals, nursing homes,  
10 long-term care facilities, kidney disease treatment centers, health  
11 maintenance organizations and ambulatory treatment centers;

12       ~~3.~~ 4. "Indoor workplace" means any indoor place of employment  
13 or employment-type service for or at the request of another  
14 individual or individuals, or any public or private entity, whether  
15 part-time or full-time and whether for compensation or not. Such  
16 services shall include, without limitation, any service performed by  
17 an owner, employee, independent contractor, agent, partner,  
18 proprietor, manager, officer, director, apprentice, trainee,  
19 associate, servant or volunteer. An indoor workplace includes work  
20 areas, employee lounges, restrooms, conference rooms, classrooms,  
21 employee cafeterias, hallways, any other spaces used or visited by  
22 employees, and all space between a floor and ceiling that is  
23 predominantly or totally enclosed by walls or windows, regardless of  
24 doors, doorways, open or closed windows, stairways, or the like.

1 The provisions of this section shall apply to such indoor workplace  
2 at any given time, whether or not work is being performed;

3 ~~4.~~ 5. "Meeting" means a meeting as defined in the Oklahoma Open  
4 Meeting Act;

5 ~~5.~~ 6. "Public body" means a public body as defined in the  
6 Oklahoma Open Meeting Act;

7 ~~6.~~ 7. "Public place" means any enclosed indoor area where  
8 individuals other than employees are invited or permitted;

9 ~~7.~~ 8. "Restaurant" means any eating establishment regardless of  
10 seating capacity;

11 ~~8.~~ 9. "Smoking" means the carrying by a person of a lighted  
12 cigar, cigarette, pipe, ~~or~~ other lighted smoking device, lighted  
13 marijuana or the use of an electronic smoking device; and

14 ~~9.~~ 10. "Stand-alone bar", "stand-alone tavern", and "cigar bar"  
15 mean an establishment that derives more than sixty percent (60%) of  
16 its gross receipts, subject to verification by competent authority,  
17 from the sale of alcoholic beverages and low-point beer and no  
18 person under twenty-one (21) years of age is admitted, except for  
19 members of a musical band employed or hired as provided in paragraph  
20 2 of ~~subsection B of Section 537~~ 6-102 of Title ~~37~~ 37A of the  
21 Oklahoma Statutes and that is not located within, and does not share  
22 any common entryway or common indoor area with, any other enclosed  
23 indoor workplace, including a restaurant.

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

4 Section 1-1523. A. Except as specifically provided in the  
5 Smoking in Public Places and Indoor Workplaces Act, no person shall  
6 smoke in a public place, in any part of a zoo to which the public  
7 may be admitted, whether indoors or outdoors, in an indoor  
8 workplace, in any vehicle providing public transportation, at a  
9 meeting of a public body, in a nursing facility licensed pursuant to  
10 the Nursing Home Care Act, ~~or~~ in a child care facility licensed  
11 pursuant to the Oklahoma Child Care Facilities Licensing Act or in  
12 the presence of persons under the age of eighteen (18). A nursing  
13 facility licensed pursuant to the Nursing Home Care Act may  
14 designate smoking rooms for residents and their guests. Such rooms  
15 shall be fully enclosed, directly exhausted to the outside, and  
16 shall be under negative air pressure so that no smoke can escape  
17 when a door is opened and no air is recirculated to nonsmoking areas  
18 of the building. Commercial airport operators may prohibit ~~the use~~  
19 ~~of lighted tobacco~~ smoking in any area that is open to or used by  
20 the public whether located indoors or outdoors, provided that the  
21 outdoor area is within one hundred seventy-five (175) feet from an  
22 entrance.

23 B. 1. Except as otherwise provided in paragraph 2 of this  
24 subsection, a technology center school district which offers an

1 early childhood education program or in which children in grades  
2 kindergarten through twelve are educated shall prohibit smoking, the  
3 use of snuff, chewing tobacco ~~or~~, any other form of tobacco product,  
4 lighted marijuana or the use of an electronic smoking device in the  
5 educational facility buildings and on the grounds of the facility by  
6 all persons including, but not limited to, full-time, part-time, and  
7 contract employees, during the hours of 7:00 a.m. to 4:00 p.m.,  
8 during the school session, or when class or any program established  
9 for students is in session.

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

15 3. A technology center school district or college or university  
16 may designate smoking areas outside the educational facility  
17 buildings for the use of adults during certain activities or  
18 functions, including, but not limited to, athletic contests.

19 4. Smoking shall be prohibited in an educational facility as  
20 defined in the 24/7 Tobacco-free Schools Act and as provided for in  
21 Section 1210.213 of Title 70 of the Oklahoma Statutes.

22 C. Nothing in this section shall be construed to prohibit  
23 educational facilities from having more restrictive policies  
24

1 regarding smoking and the use of other tobacco products in the  
2 buildings or on the grounds of the facility.

3 D. A private residence is not a "public place" within the  
4 meaning of the Smoking in Public Places and Indoor Workplaces Act  
5 except that areas in a private residence that are used as a licensed  
6 child care facility during hours of operation are "public places"  
7 within the meaning of the Smoking in Public Places and Indoor  
8 Workplaces Act.

9 E. Smoking is prohibited in all vehicles owned by the State of  
10 Oklahoma and all of its agencies and instrumentalities.

11 F. Veterans centers operated by this state pursuant to the  
12 provisions of Section 221 et seq. of Title 72 of the Oklahoma  
13 Statutes shall be designated nonsmoking effective January 1, 2015,  
14 at which time veterans centers may establish outdoor designated  
15 smoking areas for resident veterans only. Smoking shall only be  
16 allowed in designated outdoor smoking areas.

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

1 subsection H of this section or in a smoking room pursuant to  
2 subsection I of this section, such smoking space must either occupy  
3 the entire enclosed indoor space or, if it shares the enclosed space  
4 with any nonsmoking areas, the smoking space shall be fully  
5 enclosed, exhausted directly to the outside with no air from the  
6 smoking space circulated to any nonsmoking area, and under negative  
7 air pressure so that no smoke can drift or circulate into a  
8 nonsmoking area when a door to an adjacent nonsmoking area is  
9 opened. Air from a smoking room shall not be exhausted within  
10 fifteen (15) feet of any entrance, exit or air intake.

11 H. The Smoking in Public Places and Indoor Workplaces Act shall  
12 not prohibit smoking in:

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

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

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

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

23 5. Workplaces where only the owner or operator of the  
24 workplace, or the immediate family of the owner or operator,

1 performs any work in the workplace, and the workplace has only  
2 incidental public access;

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

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

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

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 Sections 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;

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

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1 11. Medical research or treatment centers, if smoking is  
2 integral to the research or treatment.

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

17 SECTION 3. This act shall become effective November 1, 2019.

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