

1 ENGROSSED HOUSE
2 BILL NO. 1389

By: Townley of the House

3 and

4 Dossett of the Senate

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6
7 An Act relating to public health and safety; amending
8 63 O.S. 2011, Sections 1-1522, as amended by Section
9 5, Chapter 259, O.S.L. 2015, and 1-1523, as last
10 amended by Section 2, Chapter 110, O.S.L. 2017 (63
11 O.S. Supp. 2018, Sections 1-1522 and 1-1523), which
relate to the Smoking in Public Places and Indoor
Workplaces Act; modifying definition to include
lighted marijuana and electronic cigarettes; and
providing an effective date.

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

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

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

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

22 2. "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 3. "Health facility" means an entity which provides health
6 services, including, but not limited to, hospitals, nursing homes,
7 long-term care facilities, kidney disease treatment centers, health
8 maintenance organizations and ambulatory treatment centers;

9 ~~3.~~ 4. "Indoor workplace" means any indoor place of employment
10 or employment-type service for or at the request of another
11 individual or individuals, or any public or private entity, whether
12 part-time or full-time and whether for compensation or not. Such
13 services shall include, without limitation, any service performed by
14 an owner, employee, independent contractor, agent, partner,
15 proprietor, manager, officer, director, apprentice, trainee,
16 associate, servant or volunteer. An indoor workplace includes work
17 areas, employee lounges, restrooms, conference rooms, classrooms,
18 employee cafeterias, hallways, any other spaces used or visited by
19 employees, and all space between a floor and ceiling that is
20 predominantly or totally enclosed by walls or windows, regardless of
21 doors, doorways, open or closed windows, stairways, or the like.
22 The provisions of this section shall apply to such indoor workplace
23 at any given time, whether or not work is being performed;

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1 ~~4.~~ 5. "Meeting" means a meeting as defined in the Oklahoma Open
2 Meeting Act;

3 ~~5.~~ 6. "Public body" means a public body as defined in the
4 Oklahoma Open Meeting Act;

5 ~~6.~~ 7. "Public place" means any enclosed indoor area where
6 individuals other than employees are invited or permitted;

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

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

12 ~~9.~~ 10. "Stand-alone bar", "stand-alone tavern", and "cigar bar"
13 mean an establishment that derives more than sixty percent (60%) of
14 its gross receipts, subject to verification by competent authority,
15 from the sale of alcoholic beverages and low-point beer and no
16 person under twenty-one (21) years of age is admitted, except for
17 members of a musical band employed or hired as provided in paragraph
18 2 of ~~subsection B of Section 537~~ 6-102 of Title ~~37~~ 37A of the
19 Oklahoma Statutes and that is not located within, and does not share
20 any common entryway or common indoor area with, any other enclosed
21 indoor workplace, including a restaurant.

22 SECTION 2. AMENDATORY 63 O.S. 2011, Section 1-1523, as
23 last amended by Section 2, Chapter 110, O.S.L. 2017 (63 O.S. Supp.
24 2018, Section 1-1523), is amended to read as follows:

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

19 B. 1. Except as otherwise provided in paragraph 2 of this
20 subsection, a technology center school district which offers an
21 early childhood education program or in which children in grades
22 kindergarten through twelve are educated shall prohibit smoking, the
23 use of snuff, chewing tobacco ~~or,~~ any other form of tobacco product,
24 lighted marijuana or the use of an electronic smoking device in the

1 educational facility buildings and on the grounds of the facility by
2 all persons including, but not limited to, full-time, part-time, and
3 contract employees, during the hours of 7:00 a.m. to 4:00 p.m.,
4 during the school session, or when class or any program established
5 for students is in session.

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

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

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

18 C. Nothing in this section shall be construed to prohibit
19 educational facilities from having more restrictive policies
20 regarding smoking and the use of other tobacco products in the
21 buildings or on the grounds of the facility.

22 D. A private residence is not a "public place" within the
23 meaning of the Smoking in Public Places and Indoor Workplaces Act
24 except that areas in a private residence that are used as a licensed

1 child care facility during hours of operation are "public places"
2 within the meaning of the Smoking in Public Places and Indoor
3 Workplaces Act.

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

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

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

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

6 H. The Smoking in Public Places and Indoor Workplaces Act shall
7 not prohibit 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 smokers, if
23 the workplace has only incidental public access. "Incidental public
24 access" means that a place of business has only an occasional

1 person, who is not an employee, present at the business to transact
2 business or make a delivery. It does not include businesses that
3 depend on walk-in customers for any part of their business;

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

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

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

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

19 11. Medical research or treatment centers, if smoking is
20 integral to the research or treatment.

21 I. Notwithstanding any other provision of the Smoking in Public
22 Places and Indoor Workplaces Act, until March 1, 2006, restaurants
23 may have designated smoking and nonsmoking areas or may be
24 designated as being a totally nonsmoking area. Beginning March 1,

1 2006, restaurants shall be totally nonsmoking or may provide
2 nonsmoking areas and designated smoking rooms. Food and beverage
3 may be served in such designated smoking rooms which shall be in a
4 location which is fully enclosed, directly exhausted to the outside,
5 under negative air pressure so smoke cannot escape when a door is
6 opened, and no air is recirculated to nonsmoking areas of the
7 building. No exhaust from such room shall be located within twenty-
8 five (25) feet of any entrance, exit or air intake. Such room shall
9 be subject to verification for compliance with the provisions of
10 this subsection by the State Department of Health.

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

12 Passed the House of Representatives the 13th day of March, 2019.

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Presiding Officer of the House
of Representatives

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Passed the Senate the ____ day of _____, 2019.

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Presiding Officer of the Senate

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