

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 57th Legislature (2019)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1389

By: Townley

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9 COMMITTEE SUBSTITUTE

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

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

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

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

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

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

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

15 ~~3.~~ 4. "Indoor workplace" means any indoor place of employment
16 or employment-type service for or at the request of another
17 individual or individuals, or any public or private entity, whether
18 part-time or full-time and whether for compensation or not. Such
19 services shall include, without limitation, any service performed by
20 an owner, employee, independent contractor, agent, partner,
21 proprietor, manager, officer, director, apprentice, trainee,
22 associate, servant or volunteer. An indoor workplace includes work
23 areas, employee lounges, restrooms, conference rooms, classrooms,
24 employee cafeterias, hallways, any other spaces used or visited by

1 employees, and all space between a floor and ceiling that is
2 predominantly or totally enclosed by walls or windows, regardless of
3 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 ~~4.~~ 5. "Meeting" means a meeting as defined in the Oklahoma Open
7 Meeting Act;

8 ~~5.~~ 6. "Public body" means a public body as defined in the
9 Oklahoma Open Meeting Act;

10 ~~6.~~ 7. "Public place" means any enclosed indoor area where
11 individuals other than employees are invited or permitted;

12 ~~7.~~ 8. "Restaurant" means any eating establishment regardless of
13 seating capacity;

14 ~~8.~~ 9. "Smoking" means the carrying by a person of a lighted
15 cigar, cigarette, pipe, ~~or~~ other lighted smoking device, lighted
16 marijuana or the use of an electronic smoking device; and

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

1 any common entryway or common indoor area with, any other enclosed
2 indoor workplace, including a restaurant.

3 SECTION 2. AMENDATORY 63 O.S. 2011, Section 1-1523, as
4 last amended by Section 2, Chapter 110, O.S.L. 2017 (63 O.S. Supp.
5 2018, Section 1-1523), is amended to read as follows:

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

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

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

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

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

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

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

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

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

19 G. An employer not otherwise restricted from doing so may elect
20 to provide smoking rooms where no work is performed except for
21 cleaning and maintenance during the time the room is not in use for
22 smoking, provided each smoking room is fully enclosed and exhausted
23 directly to the outside, in such manner that no smoke can drift or
24 circulate into a nonsmoking area. No exhaust from a smoking room

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

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

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

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

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

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

1 5. Workplaces where only the owner or operator of the
2 workplace, or the immediate family of the owner or operator,
3 performs any work in the workplace, and the workplace has only
4 incidental public access;

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

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

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

15 9. A facility operated by a post or organization of past or
16 present members of the Armed Forces of the United States which is
17 exempt from taxation pursuant to Sections 501(c)(8), 501(c)(10) or
18 501(c)(19) of the Internal Revenue Code, 26 U.S.C., Section
19 501(c)(8), 501(c)(10) or 501(c)(19), when such facility is utilized
20 exclusively by its members and their families and for the conduct of
21 post or organization nonprofit operations except during an event or
22 activity which is open to the public;

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

4 11. Medical research or treatment centers, if smoking is
5 integral to the research or treatment.

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

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

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22 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY, dated 02/28/2019 -
23 DO PASS, As Amended.
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